

# **BOROUGH OF NORTH PLAINFIELD MASTER PLAN HOUSING ELEMENT AND FAIR SHARE PLAN**

*Prepared for:*


Planning Board  
Borough of North Plainfield  
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The original copy of this document was signed and sealed  
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## **I. Introduction**

This Housing Element and Fair Share Plan has been prepared on behalf of the Borough of North Plainfield, Somerset County, in accordance with the New Jersey Municipal Land Use Law per N.J.S.A. 40:55D-28b(3) and the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.). This document supersedes and replaces the Borough's 2020 Housing Element and Fair Share Housing Plan which was adopted on August 12, 2020, hereinafter referred to as the "Borough's 2020 Housing Plan."

The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., requires that a municipal master plan include a Housing Element in order for the municipality to exercise the power to zone and regulate land use. The Housing Element and Fair Share Plan is adopted by the Borough Planning Board and endorsed by the governing body. It is intended to achieve the goal of meeting the Borough's obligations to plan and regulate land use to provide for a fair share of the regional need for affordable housing.

North Plainfield remains committed to meeting its constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of the region's present and prospective needs for housing for low- and moderate-income families. This Housing Element and Fair Share Plan document outlines how the Borough will address its affordable housing obligations.

## II. Affordable Housing in New Jersey

In 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low- and moderate-income housing needs. In 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan. In 1985, the New Jersey Legislature adopted, and the Governor signed, the Fair Housing Act N.J.S.A. 52:2D-301, et seq. ("FHA") which transformed the judicial doctrine which became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it. COAH proceeded to adopt regulations for First Round obligations applicable from 1987 to 1993 and Second Round obligations that created a cumulative obligation from 1987 to 1999.

COAH first proposed Third Round substantive and procedural rules in 2003, but due to multiple legal challenges, these rules were not adopted until 2008. However, the Third Round rules adopted in 2008 were challenged in an appeal entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010) (the "2010 Case"). In October 2010, the Appellate Division determined, among other things, that the methodology in the rules adopted in 2008 was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the First and Second Rounds, i.e. 1987-1999. In 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the Third Round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the First and Second Rounds, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 215 N.J. 578 (2013) (the "2013 Case"). COAH proceeded to propose such regulations in accordance with the schedule established by the New Jersey Supreme Court in the 2013 Case. On October 20, 2014, COAH deadlocked with a 3-3 vote and failed to adopt the revised Third Round regulations.

Due to COAH's failure to adopt the revised regulations and subsequent inaction, Fair Share Housing Center ("FSHC"), a party in the 2010 Case and the 2013 Case, filed a motion with the New Jersey Supreme Court to enforce litigant's rights. On March 10, 2015 the New Jersey Supreme Court issued its decision on FSHC's motion. The Supreme Court found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts. In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (the "2015 Case"). In doing so, the Supreme Court declined to adopt a specific methodology or formula to calculate the Third Round affordable housing obligations of the municipalities. The Court did provide some guidance by reiterating its endorsement of the

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previous methodologies employed in the First and Second Round Rules as the template to establish Third Round affordable housing obligations.

In the 2015 Case, the Supreme Court decision recognized that a number of municipalities attempted to address their affordable housing obligations in 2008 by preparing a housing element and fair share plan and petitioning COAH for substantive certification of the plan. Through no fault of its own, North Plainfield, like a number of other municipalities, did not receive substantive certification of its 2008 plan due to inaction by COAH and subsequent legal challenges. Such towns are considered “participating municipalities” and were afforded an opportunity to prepare a new housing element and fair share plan to address its affordable housing obligations. North Plainfield subsequently filed a declaratory judgment with the Superior Court in July 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and FHA in accordance with the decision in the 2015 Case. The Borough reached a settlement with FSHC, which was memorialized in an agreement between the two parties dated November 29, 2016. North Plainfield subsequently received an Order of Conditional Compliance and Repose from the Superior Court on September 30, 2020.

On March 20, 2024, Governor Phil Murphy signed a package of affordable housing bills. One of these overhauled the FHA and eliminated COAH, and set forth the process of determining Fourth Round (2025 to 2035) affordable housing obligations. The New Jersey Department of Community Affairs (DCA) calculated statewide and regional affordable housing needs, including its non-binding determination of each municipality’s Fourth Round affordable housing obligations. Municipalities were able to either the accept the DCA determination of their obligation, or to provide their own municipal determination of their Fourth Round obligation. This Housing Element and Fair Share Plan has been prepared pursuant to applicable law and regulations and addresses North Plainfield’s affordable housing compliance.

### III. Housing Element/ Fair Share Plan Requirements

In accordance with the Municipal Land Use Law (N.J.S.A 40:55D-1, et seq.), a municipal Master Plan must include a housing element as the foundation for the municipal zoning ordinance. Pursuant to the Fair Housing Act, a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. The housing element must contain at least the following, as per the FHA at N.J.S.A 52:27D-310:

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing; and
- A consideration of the lands most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing; and
- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, pursuant to N.J.S.A 52:27D-329.20f.(1); and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Administrative Directive #14-24 issued on December 13, 2024 by the Administrative Office of the Courts promulgates procedures and guidelines implementing the Affordable Housing Alternative Dispute Resolution Program ("the Program") established pursuant to section 5 of P.L.2024, c.2 (N.J.S.A 52:27D-313.2). Additional required elements of a Housing Element and Fair Share Plan (HEFSP) are appended to this Directive and include the following:

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- Detailed site suitability analyses, based on the best available data, for each of the un-built inclusionary or 100 percent affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.
- The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis to see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by the settlement agreement will actually be produced.
- Documentation of the creditworthiness of all of the existing affordable housing units in its HEFSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided.
- An analysis of how the HEFSP complies with or will comply with all of the terms of the executed settlement agreement.

The HEFSP must also include (in an Appendix) all of the adopted ordinances and resolutions needed to implement the HEFSP, including:

- All zoning amendments (or redevelopment plans, if applicable).
- An Affordable Housing Ordinance that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in the settlement agreement, requirements regarding very low income housing and very low income affordability consistent with the FHA and the settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).
- The adoption of the mandatory set aside ordinance, if any, and the repeal of the existing growth share provisions of the code.
- An executed and updated Development Fee Ordinance that reflects the court's jurisdiction.
- An Affirmative Marketing Plan adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in the settlement agreement.
- An updated and adopted Spending Plan indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality



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proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.

- A resolution of intent to fund any shortfall in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.
- Copies of the resolution(s) and/or contract(s) appointing one or more Administrative Agent(s) and of the adopted ordinance creating the position of, and resolution appointing, the Municipal Affordable Housing Liaison.
- A resolution from the Planning Board adopting the HEFSP, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a resolution of the governing body endorsing the HEFSP.

## IV. Housing Stock and Demographic Analysis

### Housing Stock Inventory

In 2023, there were 8,109 housing units in North Plainfield, of which 121, or almost 2 percent, were vacant. Of the 7,988 occupied units, approximately 56 percent were owner occupied and 45 percent were renter occupied. Table 1, Housing Units by Occupancy Status, 2023, illustrates this occupancy status in 2023.

Table 1. *Housing Units by Occupancy Status, 2023*

	Housing Units	Owner Occupied	Renter Occupied
<b>Occupied</b>	7,988	4,432	3,556
<b>Vacant</b>	121	-	-
<b>Total</b>	8,109	-	-

Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)

Approximately 52 percent of the total housing stock consists of single-family detached units. Structures with three or more units make up almost 33 percent of the total housing stock. See Table 2, Housing Units by Number of Units in Structure, 2023, for a detailed explanation of housing units in 2023.

Table 2. *Housing Units by Number of Units in Structure, 2023*

Number of Units	Total	Percent
<b>1, Detached</b>	4,241	52.3%
<b>1, Attached</b>	148	1.8%
<b>2</b>	1,045	12.9%
<b>3 or 4</b>	684	8.4%
<b>5 to 9</b>	689	8.5%
<b>10 to 19</b>	433	5.3%
<b>20+</b>	869	10.7%
<b>Mobile Home</b>	0	0.0%
<b>Other</b>	0	0.0%
<b>Total</b>	8,109	100%

Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)

Table 3, Housing Units by Age, 2023 illustrates the age of the Borough's housing stock. As one would expect from an older, largely built-out community, a large portion of the housing (i.e., nearly 29 percent) was constructed before 1940. However, the majority of the housing (i.e., 58 percent) was constructed

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in the years between 1940 and 1979. Less than 10 percent of the Borough's housing was constructed in the years following 1990, of which less than 2 percent was constructed following 2000.

*Table 3. Housing Units by Age, 2023*

<b>Year Built</b>	<b>Total Units</b>	<b>Percent</b>
<b>2020 or later</b>	0	0%
<b>2010 to 2019</b>	16	0.2%
<b>2000 to 2009</b>	106	1.3%
<b>1990 to 1999</b>	611	7.5%
<b>1980 to 1989</b>	334	4.1%
<b>1970 to 1979</b>	583	7.2%
<b>1960 to 1969</b>	1,250	15.4%
<b>1950 to 1959</b>	1,640	20.2%
<b>1940 to 1949</b>	1,261	15.6%
<b>Before 1940</b>	2,308	28.5%
<b>Total</b>	<b>8,109</b>	<b>100%</b>

*Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)*

Table 4, Housing Units by Number of Rooms for North Plainfield and Somerset County, 2023, shows that in North Plainfield, almost 20 percent of housing units have between one and three rooms; 52 percent have between four and six rooms; and 28 percent have seven or more rooms. In Somerset County, almost 11 percent of housing units have between one and three rooms; 42 percent have between four and six rooms; and 47 percent have seven or more rooms. The mean number rooms per unit in North Plainfield is 5.1, which indicates that housing stock in the Borough has, on average, fewer rooms than that of housing units County-wide (i.e., 6.3 rooms per unit).

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*Table 4. Housing Units by Number of Rooms for North Plainfield and Somerset County, 2023*

<b>Rooms</b>	<b>Number of Units in North Plainfield</b>	<b>Percent of Units in North Plainfield</b>	<b>Number of Units in Somerset County</b>	<b>Percent of Units in Somerset County</b>
<b>1</b>	279	3.4%	1,863	1.4%
<b>2</b>	145	1.8%	2,345	1.8%
<b>3</b>	1,157	14.3%	10,090	7.6%
<b>4</b>	1,776	21.9%	18,497	13.9%
<b>5</b>	1,144	14.1%	18,153	13.7%
<b>6</b>	1,324	16.3%	19,102	14.4%
<b>7</b>	919	11.3%	16,504	12.4%
<b>8</b>	819	10.1%	16,394	12.3%
<b>9+</b>	546	6.7%	29,883	22.5%
<b>Total</b>	8,109	100%	132,831	100%
<b>Mean Rooms per Unit</b>	5.1		6.3	

*Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)*

Tables 5 and 6, Housing Values, Owner Occupied, 2013 and 2023, respectively, show that the median housing value of owner-occupied housing in North Plainfield increased 25 percent between 2013 and 2023. During this same time, the median value of owner-occupied housing in Somerset County increased by 31 percent. In 2013, North Plainfield's median housing value of \$280,800 was nearly 35 percent lower than that of Somerset County's median value of \$398,800. In 2023, North Plainfield's median housing value of \$350,700 was almost 40 percent lower than that of the median value of \$523,900 for Somerset County.

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*Table 5. Housing Values, Owner Occupied, 2013*

Housing Value	Number in North Plainfield	Percent in North Plainfield	Number in Somerset County	Percent in Somerset County
Less than \$50,000	47	1.1%	951	1.1%
\$50,000 to \$99,999	84	2.0%	787	0.9%
\$100,000 to \$149,999	188	4.5%	1,599	1.8%
\$150,000 to \$199,999	400	9.6%	2,981	3.3%
\$200,000 to \$299,999	1,787	43.0%	19,103	21.2%
\$300,000 to \$499,999	1,528	36.8%	33,576	37.3%
\$500,000 to \$999,999	120	2.9%	26,385	29.3%
\$1,000,000 or more	0	0%	4,681	5.2%
<b>Total</b>	<b>4,154</b>	<b>100%</b>	<b>90,063</b>	<b>100%</b>
<b>2013 Median Value</b>	<b>\$280,800</b>		<b>\$398,800</b>	

Source: American Community Survey, 2009-2013 (Table DP04 Selected Housing Characteristics)

*Table 6. Housing Values, Owner Occupied, 2023*

Housing Value	Number in North Plainfield	Percent in North Plainfield	Number in Somerset County	Percent in Somerset County
Less than \$50,000	49	1.1%	1,038	1.1%
\$50,000 to \$99,999	25	0.6%	538	0.6%
\$100,000 to \$149,999	176	4.0%	1,528	1.6%
\$150,000 to \$199,999	114	2.6%	1,778	1.8%
\$200,000 to \$299,999	948	21.4%	8,670	9.0%
\$300,000 to \$499,999	2,705	61.0%	32,002	33.2%
\$500,000 to \$999,999	382	8.6%	40,917	42.4%
\$1,000,000 or more	33	0.7%	9,943	10.3%
<b>Total</b>	<b>4,432</b>	<b>100%</b>	<b>96,414</b>	<b>100%</b>
<b>2023 Median Value</b>	<b>\$350,700</b>		<b>\$523,900</b>	

Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)

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Monthly rental costs in North Plainfield are somewhat lower than that of Somerset County, with almost 64 percent of Borough-renters paying over \$1,500 per month in rent. In North Plainfield, the largest percentage of renters (i.e., 45 percent) pay between \$1,500 and \$1,999 per month in rent. See Table 7, Comparison of North Plainfield and Somerset County, Monthly Rental Cost, 2023, for additional details.

*Table 7. Comparison of North Plainfield and Somerset County, Monthly Rental Cost, 2023*

<b>Monthly Rent</b>	<b>Number in North Plainfield</b>	<b>Percent in North Plainfield</b>	<b>Number in Somerset County</b>	<b>Percent in Somerset County</b>
<b>No Rent Paid</b>	42	-	1,144	-
<b>Less than \$500</b>	36	1.0%	635	2.0%
<b>\$500 to \$999</b>	146	4.2%	1,475	4.6%
<b>\$1,000 to \$1,499</b>	1,099	31.3%	4,752	14.9%
<b>\$1,500 to \$1,999</b>	1,574	44.8%	10,799	33.9%
<b>\$2,000 to \$2,499</b>	632	18.0%	7,672	24.0%
<b>\$2,500 to \$2,999</b>	27	0.8%	3,770	11.8%
<b>\$3,000 or more</b>	0	0%	2,798	8.8%
<b>Total</b>	3,514	100%	31,901	100%
<b>Median Rent</b>	\$1,651	-	\$1,921	-

*Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)*

In 2023, nearly 39 percent of North Plainfield owner occupied households contributed 30 percent or more of their income towards monthly housing costs, whereas 36 percent of North Plainfield owner occupied households expended less than 20 percent of their income on monthly housing costs. See Table 8, Monthly Housing Costs as Percentage of Household Income in the Past 12 Months – Owner Occupied Units, for further information.

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*Table 8. Monthly Housing Costs as Percentage of Household Income in the Past 12 Months – Owner Occupied Housing Units, 2023*

	Less than 20 percent	20 to 29 percent	30 percent or more
<b>Less than \$20,000</b>	0%	0%	5.8%
<b>\$20,000 - \$34,999</b>	0%	0.1%	2.1%
<b>\$35,000 - \$49,999</b>	0.4%	0%	8.2%
<b>\$50,000 - \$74,999</b>	3.1%	2.1%	9.7%
<b>\$75,000 or more</b>	32.6%	21.6%	13.1%
<b>Zero or Negative Income</b>	1.2%		

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

In 2023, 53 percent of North Plainfield renter occupied households contributed 30 percent or more of their income to monthly housing costs. In contrast, 17 percent of North Plainfield renter occupied households contributed less than 20 percent of their income on monthly housing costs. See Table 9, Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Renter Occupied Units, 2023, for further information.

*Table 9. Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Renter Occupied Housing Units, 2023*

	Less than 20 percent	20 to 29 percent	30 percent or more
<b>Less than \$20,000</b>	0%	1%	14.5%
<b>\$20,000 - \$34,999</b>	0%	0%	10.2%
<b>\$35,000 - \$49,999</b>	0%	1.2%	14.5%
<b>\$50,000 - \$74,999</b>	0%	7.6%	13.4%
<b>\$75,000 or more</b>	17.4%	17.6%	0.4%
<b>Zero or Negative Income</b>	1.0%		
<b>No Cash Rent</b>	1.2%		

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

North Plainfield has 1 housing unit that lacks complete plumbing facilities and 957 units that are overcrowded (defined as having 1.01 or more persons per room). The Borough also has 0 units that have no telephone service available and 69 units that lack complete kitchen facilities. See Table 10, Selected Quality Indicators, Occupied Housing Stock, 2023, for further information.

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*Table 10. Selected Quality Indicators, Occupied Housing Stock, 2013*

	<b>Overcrowded</b>	<b>No Telephone Service Available</b>	<b>Lacking Complete Plumbing Facilities</b>	<b>Lacking Complete Kitchen Facilities</b>
<b>Units</b>	957	0	1	69

*Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)*

### **General Population Characteristics**

The population of North Plainfield continuously increased overall between 1990 and 2020, exhibiting a total 21.2 percent increase. The largest increase in the Borough's population occurred between 1990 and 2000. The population in the Borough as of 2020 was 22,808. The overall population growth of Somerset County was significantly larger than that of the Borough, with a total increase of almost 44 percent. See Table 11, Population Change, 1990-2020, for more information.

*Table 11. Population Change, 1990-2020*

	<b>1990</b>	<b>2000</b>	<b>Percent Change (1990-2000)</b>	<b>2010</b>	<b>Percent Change (2000-2010)</b>	<b>2020</b>	<b>Percent Change (2010-2020)</b>
<b>North Plainfield</b>	18,820	21,103	12.1%	21,936	3.9%	22,808	4.0%
<b>Somerset County</b>	240,279	297,490	23.8%	323,444	8.7%	345,361	6.8%

*Source: 1990, 2000, 2010, & 2020 U.S. Census*

From 2010 through 2020, there were shifts in the age distribution of North Plainfield. The age group 15 to 24 increased from 2,849 persons to 3,150 persons (i.e., nearly 11 percent). The age group 25 to 34 decreased from 3,589 persons to 3,418 persons (i.e., almost -5 percent). The largest total decrease was for the age group 35 to 44, which decreased from 3,650 persons to 3,283 persons (i.e., -10 percent). The largest total increase was for the age group 55 to 64, which increased from 2,259 persons to 2,960 persons (i.e., 31 percent). See Table 12, Comparison of Age Distribution, 2010-2020, for additional details.



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*Table 12. Comparison of Age Distribution, 2010-2020*

<b>Age Group</b>	<b>2010</b>	<b>Percent</b>	<b>2020</b>	<b>Percent</b>	<b>Percent Change</b>
Under 5	1,611	7.3%	1,370	6.0%	-15.0%
5-14	2,869	13.1%	2,810	12.3%	-2.1%
15-24	2,849	13.0%	3,150	13.8%	10.6%
25-34	3,589	16.4%	3,418	15.0%	-4.8%
35-44	3,650	16.6%	3,283	14.4%	-10.1%
45-54	3,267	14.9%	3,285	14.4%	0.6%
55-64	2,259	10.3%	2,960	13.0%	31.0%
65-74	1,027	4.7%	1,665	7.3%	62.1%
75+	815	3.7%	867	3.8%	6.4%
<b>Totals</b>	<b>21,936</b>	<b>100.0%</b>	<b>22,808</b>	<b>100%</b>	<b>-</b>

*Source: 2010 and 2020 U.S. Census (Table DP1 Profile Of General Population And Housing Characteristics)*

### **Household Characteristics**

A household is defined by the U.S. Census Bureau as those persons who occupy a single room or group of rooms constituting a housing unit; however, these persons may or may not be related. As a subset of households, a family is identified as a group of persons including a householder and one or more persons related by blood, marriage or adoption, all living in the same household. In 2023, there were 7,988 households in North Plainfield, with an average of 2.83 persons per household and an average of 3.43 persons per family. Approximately 47 percent of the households are comprised of married couple family households with or without children. 29 percent of the North Plainfield households are non-family households, which includes individuals. (Source: ACS 2019-2023, Table S1101 & S2501).

### **Income Characteristics**

Persons residing in North Plainfield have, on average, lower incomes than that of Somerset County. Annual median income for Borough households in 2023 was \$83,529, whereas annual median income for households County-wide was \$135,960. Table 13, Household and Family Income by Income Brackets for North Plainfield and Somerset County, 2023, further illustrates these findings by noting the number of households in each of the income categories.

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*Table 13. Household and Family Income by Income Brackets for North Plainfield and Somerset County, 2023*

	North Plainfield		Somerset County	
	Households	Percent	Households	Percent
<b>Less than \$5,000</b>	101	1.3%	1,959	1.5%
<b>\$5,000 to \$9,999</b>	144	1.8%	1,349	1.0%
<b>\$10,000 to \$14,999</b>	296	3.7%	1,831	1.4%
<b>\$15,000 to \$19,999</b>	358	4.5%	2,100	1.6%
<b>\$20,000 to \$24,999</b>	103	1.3%	2,460	1.9%
<b>\$25,000 to \$34,999</b>	357	4.5%	4,443	3.4%
<b>\$35,000 to \$49,999</b>	942	11.8%	6,934	5.4%
<b>\$50,000 to \$74,999</b>	1,403	17.6%	12,137	9.4%
<b>\$75,000 to \$99,999</b>	1,028	12.9%	13,509	10.4%
<b>\$100,000 to \$149,999</b>	1,678	21.0%	23,925	18.5%
<b>\$150,000 or more</b>	1,578	19.8%	58,812	45.4%
<b>Total</b>	7,988	100%	129,459	100%
<b>Median Income</b>	\$83,529		\$135,960	

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

Although the Census data does not provide a breakdown of household income by household size, the 2024 Regional Income Limits prepared by the Affordable Housing Professionals of New Jersey<sup>1</sup> for Hunterdon, Middlesex and Somerset Counties (Region 3) indicate the median household income for a household of one person was \$102,340. As such, the moderate-income threshold for a household of one person was \$81,872 (i.e., 80 percent of \$102,340). In attempting to approximate the number of low- and moderate-income households in the Borough, using a household size of one is a conservative approach that represents just a minimum threshold. Table 13 above shows that the percentage of households in the Borough for which income was below the closest breakpoint to this minimum threshold (i.e. \$75,000) was approximately 46 percent.

The percentage of persons and households below the poverty level, as defined by the 2023 American Community Survey, equates to 14 percent of all North Plainfield residents. This is notably higher than that of the County as a whole, wherein 5 percent of County residents were living below the poverty level in 2023. (Source: ACS 2019-2023, Table S1701)

## Employment Characteristics

Table 14, Employment Status, 2023, indicates the number of Borough residents 16 years and over who are in the labor force, the type of labor force (i.e., civilian or armed forces) and employment status. Approximately 75 percent of North Plainfield residents 16 and over are in the in the labor force, and among those in the labor force, all are in the civilian labor force. Of the residents in the civilian labor force, approximately 90 percent are employed and approximately 10 percent are unemployed.

<sup>1</sup> [https://ahpnj.org/member\\_docs/Income\\_Limits\\_2024\\_FINAL.pdf](https://ahpnj.org/member_docs/Income_Limits_2024_FINAL.pdf)

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*Table 14. Employment Status, 2023*

	Number in North Plainfield	Percent in North Plainfield
<b>Population 16 years and over</b>	18,046	-
<b>In Labor Force</b>	13,495	74.8%
<b>Civilian Labor Force</b>	13,495	74.8%
Employed	12,200	67.6%
Unemployed	1,295	7.2%
<b>Armed Forces</b>	0	0.0%
<b>Not in Labor Force</b>	4,551	25.2%

Source: American Community Survey, 2019-2023 (Table DP03 Selected Economic Characteristics)

Table 15, Employment by Occupation, North Plainfield, 2023, identifies the occupations of employed persons in the Borough. While North Plainfield residents work in a variety of industries, 29 percent of employed residents work in Management, Business, Science, and Arts-related occupations; 23 percent work in Sales and Office-related occupations; and 18 percent work in Production, Transportation, and Material Moving occupations.

*Table 15. Employment by Occupation, North Plainfield, 2023*

Sector Jobs	Number	Percent
<b>Management, Business, Science, and Arts Occupations</b>	3,558	29.2%
<b>Service</b>	2,169	17.8%
<b>Sales and Office</b>	2,814	23.1%
<b>Natural Resources, Construction, and Maintenance</b>	1,427	11.7%
<b>Production, Transportation, and Material Moving</b>	2,232	18.3%
<b>Total</b>	12,200	100%

Source: American Community Survey, 2019-2023 (Table DP03 Selected Economic Characteristics)

Table 16, Distribution of Employment by Industry, Borough Residents, 2023, shows the distribution of employment by industry for employed North Plainfield residents. The four industries to capture the largest segments of the population were the Educational, Health, and Social Services sector at nearly 19 percent; the Retail Trade sector at almost 15 percent; the Professional, Scientific, Management, Administrative, and Waste Management Services sector at nearly 14 percent; and the Manufacturing sector at 10 percent.

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*Table 16. Distribution of Employment by Industry, Borough Residents, 2023*

<b>Sector Jobs</b>	<b>Number</b>	<b>Percent</b>
<b>Agriculture, Forestry, Fishing and Hunting, and Mining</b>	12	0.1%
<b>Construction</b>	1,036	8.5%
<b>Manufacturing</b>	1,243	10.2%
<b>Wholesale Trade</b>	219	1.8%
<b>Retail Trade</b>	1,821	14.9%
<b>Transportation and Warehousing, and Utilities</b>	1,187	9.7%
<b>Information</b>	411	3.4%
<b>Financing, Insurance, Real Estate, Renting, and Leasing</b>	570	4.7%
<b>Professional, Scientific, Management, Administrative, and Waste Management Services</b>	1,652	13.5%
<b>Educational, Health and Social Services</b>	2,297	18.8%
<b>Arts, Entertainment, Recreation, Accommodation and Food Services</b>	910	7.5%
<b>Public Administration</b>	280	2.3%
<b>Other</b>	562	4.6%
<b>Total</b>	12,200	100%

*Source: American Community Survey, 2019-2023 (Table DP03 Selected Economic Characteristics)*

Of employed Borough residents, approximately 82 percent are private wage and salary workers; almost 12 percent are government workers; and 6 percent are self-employed. See Table 17, Distribution by Class of Worker, 2023, for additional details.

*Table 17. Distribution by Class of Worker in North Plainfield, 2023*

	<b>Number</b>	<b>Percent</b>
<b>Private Wage and Salary Workers</b>	10,029	82.2%
<b>Government Workers</b>	1,401	11.5%
<b>Self-employed in own not incorporated business workers</b>	758	6.2%
<b>Unpaid family workers</b>	12	0.1%
<b>Total</b>	12,200	100.0%

*Source: American Community Survey, 2019-2023 (Table DP03 Selected Economic Characteristics)*

The New Jersey Department of Labor and Statistics tracks covered employment throughout the State. See Table 18, Employment in North Plainfield by Industry Sector, 2012, 2017, 2022, for additional details. According to the New Jersey Department of Labor and Statistics, there were 3,657 jobs in North Plainfield in 2022. Retail Trade, Educational Services, Accommodation and Food Services, and Administration & Support, Waste Management and Remediation were the largest sectors of in-town

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employment, with 1006, 592, 373, and 348 jobs, respectively. Table 18 also shows the number of employees by sector in North Plainfield in 2012 and 2017. The largest decrease in local employment between 2012 and 2022 was in the Educational Services sector, which experienced a decrease of 93 jobs or almost 14 percent. The sector that saw the largest local increase in employment between 2012 and 2022 was the Administration & Support, Waste Management and Remediation sector, with an increase of 230 jobs or approximately 195 percent.

*Table 18. Employment in North Plainfield by Industry Sector, 2012, 2017, 2022*

	2012		2017		2022	
PRIVATE SECTOR JOBS	COUNT	SHARE	COUNT	SHARE	COUNT	SHARE
Agriculture, Forestry, Fishing and Hunting, and Mining	0	0.0%	0	0.0%	1	0.0%
Mining, Quarrying, and Oil and Gas Extraction	0	0.0%	3	0.1%	2	0.1%
Utilities	0	0.0%	0	0.0%	0	0.0%
Construction	136	4.5%	218	6.3%	213	5.8%
Manufacturing	45	1.5%	54	1.6%	56	1.5%
Wholesale Trade	30	1.0%	16	0.5%	198	5.4%
Retail Trade	827	27.6%	1,257	36.4%	1,006	27.5%
Transportation and Warehousing	29	1.0%	33	1.0%	67	1.8%
Information	12	0.4%	0	0.0%	9	0.2%
Finance and Insurance	103	3.4%	77	2.2%	52	1.4%
Real Estate and Rental and Leasing	116	3.9%	114	3.3%	117	3.2%
Professional, Scientific and Technical Services	107	3.6%	88	2.5%	94	2.6%
Management of Companies and Enterprises	0	0.0%	0	0.0%	0	0.0%
Administration & Support, Waste Management and Remediation	118	3.9%	186	5.4%	348	9.5%
Educational Services	685	22.9%	573	16.6%	592	16.2%
Health Care and Social Assistance	242	8.1%	202	5.9%	191	5.2%
Arts, Entertainment, and Recreation	34	1.1%	5	0.1%	0	0.0%
Accommodation and Food Services	165	5.5%	299	8.7%	373	10.2%
Other Services (Excluding Public Administration)	137	4.6%	116	3.4%	124	3.4%
Public Administration	208	6.9%	211	6.1%	214	5.9%
<b>TOTAL PRIVATE SECTOR</b>	<b>2,994</b>	<b>100%</b>	<b>3,452</b>	<b>100%</b>	<b>3,657</b>	<b>100%</b>

Source: State of New Jersey Department of Labor and Workforce Development Local Employment Dynamics; <http://onthemap.ces.census.gov/>

## Growth Trends and Projections

### Residential Trends and Projections

According to the New Jersey Construction Reporter, between 2013 and 2023, North Plainfield issued 9 residential certificates of occupancy: all of which were for one- and two-family dwelling units. See Table 19, Residential Certificates of Occupancy, 2013-2023, for additional details.

Table 19. Residential Certificates of Occupancy, 2013-2023

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
<b>1 &amp; 2 Family</b>	0	0	1	5	0	0	0	0	0	0	3	9
<b>Multifamily</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	0	0	1	5	0	0	0	0	0	0	3	9

Source: New Jersey Construction Reporter

North Plainfield is essentially a fully developed community, with environmental constraints or other limitations on the remaining undeveloped tracts zoned for residential use. As evidenced by Table 19, the Borough has had on average less than one new dwelling unit constructed each year over the past decade. Given the lack of vacant, developable land in the municipality, it is not anticipated there will be much new housing development in coming years other than redevelopment of existing developed properties.

### Non-Residential Trends and Projections

According to the New Jersey Construction Reporter, between 2013 and 2023, North Plainfield issued certificates of occupancy for a total of ±219,579 square feet of non-residential building space. See Table 20, Non-Residential Certificates of Occupancy, 2013-2023, for additional details. The majority of the non-residential growth can be attributed to:

- A total of 168,666 square feet of retail space in 2014 and 2016.
- A total of 31,640 office space in 2013, 2017, and 2022.

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*Table 20. Non-Residential Certificates of Occupancy, 2013-2023*

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
Office	3,840	0	0	0	23,807	0	0	0	0	3,993	0	31,640
Retail	0	156,166	0	12,500	0	0	0	0	0	0	0	168,666
A-1	0	0	8,230	0	0	0	0	0	0	0	0	8,230
A-2	0	0	0	0	7,337	0	0	0	0	0	0	7,337
A-3	0	0	0	0	0	0	0	0	0	0	0	0
A-4	0	0	0	0	0	0	0	0	0	0	0	0
A-5	0	0	0	0	0	0	0	0	0	0	0	0
Multifamily/ Dormitories	0	0	0	0	0	3,706	0	0	0	0	0	3,706
Hotel/ Motel	0	0	0	0	0	0	0	0	0	0	0	0
Education	0	0	0	0	0	0	0	0	0	0	0	0
Industrial	0	0	0	0	0	0	0	0	0	0	0	0
Hazardous	0	0	0	0	0	0	0	0	0	0	0	0
Institutional	0	0	0	0	0	0	0	0	0	0	0	0
Storage	0	0	0	0	0	0	0	0	0	0	0	0
Signs, Fences, Utility & Misc.	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>3,840</b>	<b>156,166</b>	<b>8,230</b>	<b>12,500</b>	<b>31,144</b>	<b>3,706</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,993</b>	<b>0</b>	<b>219,579</b>

*Source: New Jersey Construction Reporter*

### Capacity for Growth

North Plainfield is essentially fully developed. The Vacant Land Analysis in the following chapter addresses this issue in detail, and demonstrates the limited amount of available developable land within the Borough. The most realistic development opportunities involved the redevelopment of existing developed properties for residential use or mixed-use development.

As the Vacant Land Analysis shows, there are various small parcels that are identified as vacant and that have development potential. A number of these parcels are isolated lots in residential neighborhoods that are too small for affordable housing development, while others are irregularly shaped or otherwise constrained. Therefore, any existing vacant or potentially redeveloped parcels have been taken into account in this document.



## V. Fair Share Plan

### Affordable Housing Obligations

#### Introduction

The New Jersey Department of Community Affairs (DCA) has calculated statewide and regional affordable housing needs, including municipal obligations. These non-binding determination of each municipality's Fourth Round (2025 to 2035) affordable housing obligations were released on October 18, 2024. A deadline of January 31, 2025 was set for municipalities to adopt a binding resolution setting forth either their acceptance of the DCA determination of their obligations or the municipal determination of their Fourth Round obligations. North Plainfield's Mayor and Council adopted a resolution on January 27, 2025 setting forth its determination of the Borough's Fourth Round obligations. This resolution was filed with the State's Affordable Housing Dispute Resolution Program within 48 hours of adoption and was published on the Borough's website as required. Each of these obligations is discussed below.

#### Present Need

Present need, also known as the rehabilitation obligation, is defined as the number of substandard existing deficient housing units in the municipality currently occupied by low- and moderate-income (LMI) households. DCA proposed a non-binding Present Need obligation for North Plainfield of 427. The Borough of North Plainfield undertook a "windshield survey" to more accurately determine the number of substandard existing deficient housing units in the municipality. The Present Need obligation has been adjusted to 32 based upon the findings of this survey.

#### Prospective Need

Municipal Prospective Need obligations are calculated as a share of the region in which the municipality is located (North Plainfield's region includes Hunterdon, Middlesex and Somerset Counties). The total Prospective Need for this region is 11,604, with this need allocated to municipalities throughout the region. However, "Qualified Urban Aid Municipalities" are exempt from addressing Prospective Need, which increases the remaining municipalities' obligations. Regional Prospective Need is then allocated across the non-qualified urban aid municipalities in the region by applying three factors.

#### *Equalized Nonresidential Valuation*

This factor is the change in nonresidential property valuations in the municipality from 1999 to 2023 divided by the regional total change in nonresidential valuations. This factor for North Plainfield is 0.90%.

#### *Income Capacity*

This factor measures the extent to which a municipality's income level differs from that of the lowest-income municipality in its housing region. This factor for North Plainfield is 0.62%.



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### *Land Capacity*

This factor determines the total acreage that is developable in a municipality utilizing the most recent land use / land cover (LULC) data from the New Jersey Department of Environmental Protection (DEP), the most recently available MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from DCA. The calculation is supposed to exclude lands subject to development limitations. "Weighting factors" as specified in the Affordable Housing Law were applied to developable lands based on the planning area type in which such land was located. For municipalities such as North Plainfield located in Planning Area 1, the weight is 1, meaning there is no reduction, unlike in various other planning areas. This factor for North Plainfield is 0.12%.

However, North Plainfield's Prospective Need obligation should be lower than the DCA's non-binding obligation due to issues with DCA's calculations as detailed below. In particular, the Land Capacity factor classifies a number of areas in the Borough as "developable" when in reality they are not.

The DCA issued the data that was the basis for the land allocation factor on November 27, 2024. The link to the DCA GIS data<sup>2</sup>, and the description section, includes the following language:

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

The areas identified as developable in the DCA's calculation of the Land Capacity factor are indeed overinclusive. Accordingly, it is my opinion that the amount of developable land should be adjusted from 12.6148 to 0.4291 acres, which would result in the Land Capacity factor dropping from 0.12% to 0.004%. A document outlining this analysis is included in the Appendix.

### *Final Prospective Need Calculation*

The Equalized Nonresidential Valuation Factor, Land Capacity Factor And Income Capacity Factor for each municipality were averaged to determine an Average Allocation Factor, which is the basis for municipal Prospective Need. North Plainfield's Average Allocation Factor is 0.32%, which resulted in DCA's proposed non-binding Prospective Need obligation for North Plainfield of 64. However, the Average Allocation factor should be reduced from 0.55% to 0.51%. When this correction is made, North Plainfield's Fourth Round Prospective Need number is 59.<sup>3</sup>

<sup>2</sup> <https://njdca.maps.arcgis.com/home/item.html?id=12acdfe0a5104f8f8a2f604e96063e74>

<sup>3</sup> This calculation is based on the factors including in DCA's Fourth Round municipal obligations spreadsheets, as it impossible to determine how these numbers would change based on numerous municipalities potentially submitting changes such as those being considered based on this document.

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The Borough filed a declaratory judgment complaint in the Superior Court of New Jersey on January 28, 2025, which included a Prospective Need number of 59. The New Jersey Builders' Association (NJBA) filed an objection to North Plainfield's filing on February 25, 2025, which challenged the proposed reduction in the Borough's Prospective Need. Prior to a scheduled settlement conference on this matter on March 26, 2025, NJBA offered a settlement to adjust the DCA's Prospective Need number for North Plainfield from 64 to 60. After considering the settlement offer by the NJBA, North Plainfield agreed to the settlement. Based on this settlement, the Borough's modified Fourth Round Prospective Need is 60 units.

The Prospective Need obligation is cumulative. The new construction number consists of the Prior Round obligations for Rounds 1 and 2, the Prospective Need obligation for Round 3 and the Prospective Need obligation for Round 4.

In accordance with an agreement reached between the Borough of North Plainfield and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in affordable housing proceedings statewide (the "settlement agreement"), North Plainfield's Prospective Need obligations for 1987 to 2025 are as follows:

Prior Round Obligation (1987 to 1999, pursuant to N.J.A.C. 5:93): 0  
Third Round (1999 to 2025) Prospective Need: 173

The Present Need and Prospective Need are based upon a report entitled "New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology," May 2016, prepared by David N. Kinsey, PhD, PP, FAICP (the "Kinsey Report"). The Third Round Prospective Need was adjusted as part of the settlement agreement. It was determined based on a vacant land adjustment (VLA) that North Plainfield's Third Round Realistic Development Potential (RDP) was 21. As discussed below, when this RDP plus nine bonus credits were subtracted from the Third Round Prospective Need, North Plainfield's Third Round "Unmet Need" was 143.

#### Vacant Land Analysis

There is limited land in the Borough that is vacant or otherwise developable for affordable and/or inclusionary housing. North Plainfield is entitled to a Vacant Land Adjustment (VLA) to determine the Borough's Fourth Round RDP based on the amount of vacant and/or developable land that is suitable for inclusionary development. A VLA analysis (included in Appendix 2) was prepared for North Plainfield in order to determine the municipality's Fourth Round RDP for the creation of new affordable housing units. This analysis determined that North Plainfield has a Fourth Round RDP of four units. After subtracting this number from the Fourth Round Prospective Need of 60 units, North Plainfield has a Fourth Round Unmet Need of 56 units.

## Proposed Compliance Mechanisms

### Present Need

A number of substandard dwelling units in North Plainfield have been rehabilitated in recent years. Some of these were through a non-profit housing corporation, "Friends of the Carpenter," who since 1988 has administered a rehabilitation program for substandard dwelling units in North Plainfield occupied by low- and moderate-income households. This program is funded by the Borough of North Plainfield and provides interest-free loans to homeowners that meet income guidelines. The loan principal is forgiven at a rate of 10 percent a year, and is fully forgiven at the end of 10 years. Additional housing units have been rehabilitated through the Somerset County Community Development Block Grant Program.

North Plainfield will continue to promote rehabilitation of existing units through the above programs, which will be funded through its affordable housing trust fund and other sources. The Spending Plan in Appendix 4 outlines the funding proposed to address part of the Borough's Present Need during the Fourth Round.

### Prior Rounds and Prospective Need

As noted above, the Borough has a combined 1987-2035 fair share Prospective Need of 232, which is reduced to 25 based on Third and Fourth VLAs. The Third Round RDP is 21 and the Fourth Round RDP is four.

The Third Round RDP has been satisfied through the following compliance mechanisms, which are summarized in Table 21.

**Group Homes:** There are six existing group homes with a total of 23 bedrooms in North Plainfield:

1. **The Arc of Somerset County – Block 13, Lot 5:** This four-bedroom group home is located on Mobus Avenue and opened in 1987.
2. **Community Options, Inc. – Block 7, Lot 11:** This four-bedroom group home is located on Jefferies Place and opened in 1997.
3. **Devereux Foundation – Block 156.01, Lot 11:** This three-bedroom group home is located on Maple Terrace and opened in 1999.
4. **Community Options, Inc. – Block 147, Lot 16:** This four-bedroom group home is located on Myrtle Avenue and opened in 1997.
5. **Everas Community Services, Inc. – Block 154.01, Lot 2:** This four-bedroom group home is located on West End Avenue and opened in 2014.
6. **Keystone Community Living, Inc. – Block 194, Lot 17:** This four-bedroom group home is located on Lawrence Avenue and opened in 2012.

N.J.A.C. 5:93-1.3 defines a group home for the developmentally disabled as licensed and/or regulated by the New Jersey Department of Human Services as an "alternative living arrangement." Per N.J.A.C. 5:93-5.8 alternative living arrangements may be used to address a municipal housing obligation.

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The Borough is claiming credit for the three above group homes constructed in 1999 or later. The unit of credit is the bedroom and each unit may be used to address a municipality's rental obligation. Therefore North Plainfield is eligible for 11 credits for these three group homes. Per N.J.A.C. 5:97-3.5, units created and occupied after December 15, 1986 may receive rental bonuses for the Prior Round Obligation. Thus, the above homes are eligible for rental bonuses.

**Villa Maria Site:** This 14.32-acre site is located in the north-central portion of the Borough of North Plainfield between Grove Street, Somerset Street and Interhaven Avenue and is identified as Block 1.10, Lots 2.02 through 2.14 on the Borough's tax records. The property was formerly developed with multiple vacant buildings and related improvements. It was previously used as a nursing home and rehabilitation facility, which closed in 2002. The oldest buildings on the Villa Maria site were originally constructed in the Nineteenth Century as part of a tuberculosis sanitarium. The site is in an area with established infrastructure and is readily available for redevelopment.

This approximately 14-acre property has also been under consideration for acquisition as open space, and both open space and affordable housing will be provided on this property. The North Plainfield Planning Board approved a subdivision a few years ago that created 13 single-family residential lots along Grove Street and one large lot for the remainder of the property. The large lot has been acquired by the Somerset County Improvement Authority for preservation as open space. The total area of the smaller residential lots is 2.36 acres (102,758 square feet). Subtracting the lot at the corner of Grove Street and Interhaven Avenue that is already developed with an existing dwelling in separate ownership, the area of the remaining 12 lots fronting on Grove Street is 2.07 acres (90,048 square feet). It is anticipated 13 low- and moderate-income units could be provided on this portion of the site. A redevelopment plan has been prepared for this property that permits residential development and requires the provision of a minimum of 13 low- and moderate-income units. In 2024, the Planning Board approved a site plan for an inclusionary housing development consisting of 32 dwelling units, including 13 affordable units.

*Table 21. Affordable Housing Credits to Address Third Round Realistic Development Potential*

<u>Affordable Development</u>	<u>Type</u>	<u>Units</u>	<u>Bonus Credits</u>	<u>Total Credits Plus Bonuses</u>
Group Homes	Alternative Living Arrangements	11 bedrooms	0	11
Villa Maria Site	Inclusionary Development	13 units	6	19
TOTAL				30

As the Third Round RDP is 21, North Plainfield has addressed it through the above credits and has nine surplus credits.

#### Fourth Round Prospective Need

North Plainfield's Fourth Round RDP is four units, which is addressed by four of the surplus credits noted above. The remaining five surplus credits can be applied to the Fourth Round Unmet Need.

**Borough of North Plainfield Master Plan  
2025 Housing Element and Fair Share Plan**

### Unmet Need

North Plainfield's Fourth Round Unmet Need obligation of 56 units will be addressed through the following compliance mechanisms:

**Surplus Credits:** The five credits discussed above can be applied to Unmet Need.

**“Old Mill” – Brook Avenue and Pearl Street:** This 2.8-acre property is currently developed with older industrial buildings occupied by various commercial uses. The developable area of this property after accounting for environmentally constrained areas is 2.2 acres. The existing zoning of the property (B-1) permits apartment buildings up to four stories in height. The Borough's 2017 Housing Element and Fair Share Housing Plan proposed to create an overlay zone will be created for this property that would require the provision of low- and moderate-income units but would allow for increased density. This AHO Affordable Housing Overlay zone was created in 2017 by the adoption of Ordinance Number 2017-21, and was modified in 2020 by Ordinance Number 2020-06 to implement the Borough's 2020 Housing Plan. The maximum gross residential density for the AHO zone is 35 dwelling units per acre in exchange for the required provision of low- and moderate-income dwelling units.

The bulk regulations of this are proposed to be modified to encourage the redevelopment of this property for inclusionary residential development. Specific changes include increasing the maximum permitted density by 20 percent (to 42 dwelling units per acre), increasing maximum impervious coverage and reducing the minimum rear yard. A proposed draft ordinance including these changes is provided in Appendix 5.

**Inclusionary Zoning Requirements:** While there are no other large vacant parcels available for redevelopment at this time, it is possible that existing developed areas may be proposed for redevelopment. The Borough added Inclusionary Housing Requirements for rezoning and variances to the Land Development Chapter of the Borough's General Ordinances in Section 22-133. It requires any residential development consisting of six or more dwelling units, at a density above six units per acre, that is permitted pursuant to a variance or rezoning, to produce low- and moderate-income housing on-site or elsewhere in the Borough. The number of affordable units to be provided shall be equal to 20% of the for-sale residential units in the development or 15% for affordable rental units.

### **Consideration of Lands and Buildings for Low- and Moderate-Income Housing**

North Plainfield is an essentially fully developed municipality with limited vacant land. As documented by the VLA discussed above, most of the vacant land in the Borough is not developable due to environmental constraints or other factors. The one prime developable parcel of land at the time of the 2020 Housing Plan, the Villa Maria site, has been designated and approved for redevelopment.

The “Old Mill” site discussed above is potentially redevelopable. It is a property with a developable area of approximately 2.2 acres that is currently improved with older industrial buildings occupied by various commercial uses. The Borough has provided favorable zoning for this site, which has been adjusted as discussed above.

**Borough of North Plainfield Master Plan  
2025 Housing Element and Fair Share Plan**

As of the date of this plan, there have not been any developers who have expressed a commitment to provide low- and moderate-income housing (other than the Villa Maria site).

The two above sites designated for affordable housing development, with the exception of group homes, are shown on the "Potential Affordable Housing Sites" map in Appendix 1. The map depicts all environmental constraints affecting all properties within the Borough, consisting of wetlands and water bodies derived from the 2020 State Land Use/Land Cover dataset; steep slope areas exceeding 15 percent greater than 5,000 square feet as per 10 foot digital elevation model LiDAR data; and flood hazard areas within the 100-year floodplain as indicated by FEMA. The map also depicts properties which were initially evaluated for development as affordable housing, which consists of vacant land and Borough-owned parcels. The final sites evaluated as being potentially developable for affordable housing include the Villa Maria site and the "Old Mill" site. The open space portion of the Villa Maria site contains the Stony Brook water body which traverses the northern and eastern perimeter of the site, along which lie flood hazard areas and steep slopes, along with additional narrow steep slope areas in the western half of the open space area. The portion proposed for housing development contains minimal steep slope areas generally within the center of the subdivided lots. The "Old Mill" site contains the Green Brook water body which runs along the eastern boundary of the lot, surrounding which also exist flood hazard areas and steep slope areas.

### **Spending Plan**

The Borough of North Plainfield has a development fee ordinance which is intended to provide a dedicated revenue source for affordable housing. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund for the purposes of affordable housing. These funds shall be spent for purposes including a housing rehabilitation program, costs associated with affordable housing construction, providing affordability assistance to low-income households and professional services related to the planning for affordable housing. A detailed spending plan is included in Appendix 3.



## VI. Relationship to Multigenerational Family Housing Continuity

Multigenerational housing is becoming a desired housing option in the State due to rising housing costs and an aging population. Housing for multigenerational families is necessary to offer a diverse housing stock and to account for population trends. Multigenerational housing can provide an opportunity for residents to age in place, save on costs associated with housing, and provide in-house care for an older adult or persons with disabilities. Additionally, multigenerational housing is a more sustainable approach to meeting housing obligations as there is no need for the construction of new homes in order to provide housing for additional individuals.

One possible approach to providing multigenerational housing is the construction of accessory dwelling units (ADUs). A frequent concern when choosing to live in multigeneration housing layout is lack of privacy. ADUs offer sufficient privacy within a home, providing all the benefits of multigenerational housing without individuals sacrificing their personal space. ADUs make use of existing infrastructure, and therefore are more environmentally friendly, and can easily maintain the character of the neighborhood and/or municipality. ADUs are also a positive economic option. There are five types of ADUs: detached, attached, interior, above garages, and garage conversions.

In addition to ADUs, another forms of multigenerational housing that North Plainfield could continue to integrate into its housing stock is multifamily residential that offers resources and amenities for elderly, young adults, middle-aged parents, and young children alike to support all ages and all generations potentially living together. Providing amenities such as ADA compliant parking spaces, ramps, and public spaces, as well as on-site playgrounds and daycares, public office space, and meeting rooms facilitates cohesive living for all ages.

North Plainfield presently does not allow second residential structures or uses. Per Zoning Ordinance §22-1.15.3, "No accessory structures shall be used as a dwelling" in any residential zone. In order to allow for secondary residential structures and specifically allow for ADUs in their residential zones, this section would have to be amended. Additional potential recommendations for the Borough to address multigenerational housing needs are as follows:

- Allow ADUs in residential zones as permitted or conditionally permitted uses;
- Create design standards for multifamily residential development to guarantee diverse amenities and resources for persons of all ages;
- Encourage multigenerational housing in transit-oriented areas where public transit can be easily accessible to limit the need for extra parking spaces on the property and ensure the increased density has no negative effects on the community.

## VII. Consistency with the State Development and Redevelopment Plan

The New Jersey State Development and Redevelopment Plan (SDRP) was originally adopted in 1992. The purpose of the SDRP according to the State Planning Act at N.J.S.A. 52:18A-200(f) is to:

*Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.*

The State Plan is not a regulation, but a policy guide, and is meant to coordinate planning activities and development throughout the state. At the municipal level, master plans are required to be evaluated and, if necessary, modified to reflect policies of the State Plan. The State Plan is also important when the State makes infrastructural and other investment decisions, i.e., in determining where available State funds should be expended.

A revised version of the plan was adopted by the State Planning Commission in 2001. While required by the State Planning Act to be revised and re-adopted every three years, the SDRP has only been readopted once during the 32 years since its original adoption. A new State Strategic Plan (SSP) was proposed in 2011 as the revision to the 2001 SDRP, but it has not been advanced in recent years. The State Office of Planning Advocacy started the process of preparing a new State Plan in 2023 and the State Planning Commission has been engaging with stakeholders. As part of the update process, the State Planning Commission approved the Preliminary State Development and Redevelopment Plan on December 4, 2024, and is now undertaking the Cross-Acceptance process (i.e. review of the plan at the county level).

Spatially, the last adopted State Plan utilizes planning areas, centers, and environs as a framework for implementing Statewide goals and policies. The State Plan Map indicates that the Borough of North Plainfield is located within the Metropolitan Planning Area (PA1). For the Metropolitan Planning Area, the State Plan has four major aims, as follows: (1) to provide for much of the state's future redevelopment; (2) to revitalize cities and towns and promote growth in compact forms; (3) to stabilize older suburbs and redesign areas of sprawl; and (4) to protect the character of existing stable communities.

The land use policy objectives of the Metropolitan Planning Area are to:

1. Promote redevelopment and development in cores and neighborhoods through cooperative regional planning efforts;
2. Promote diversification of land uses, including housing where appropriate, in single-use developments and enhance their linkages to the rest of the community; and
3. Ensure efficient and beneficial utilization of scarce land resources throughout the Planning Area to strengthen its existing diversified and compact nature.



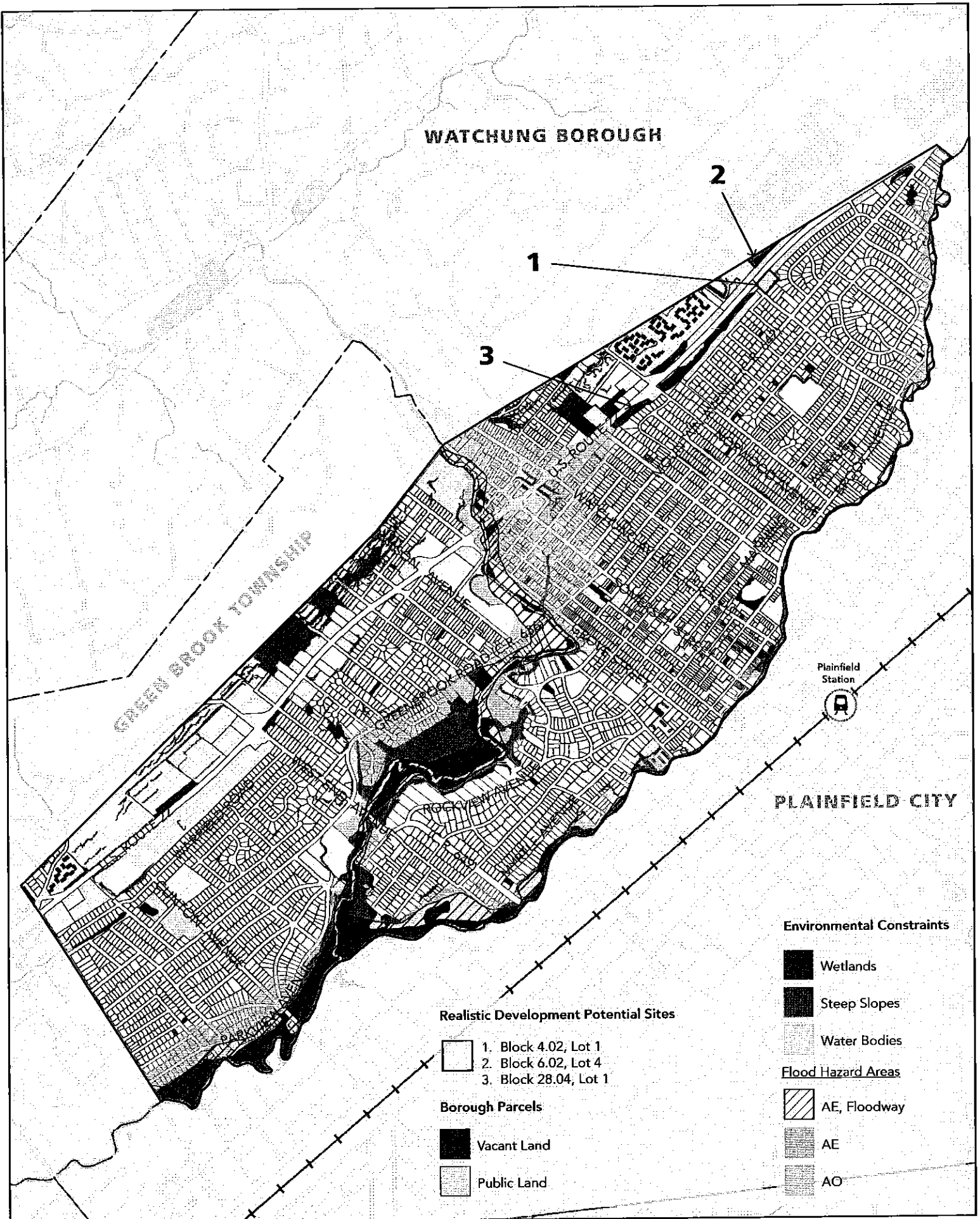
**Borough of North Plainfield Master Plan  
2025 Housing Element and Fair Share Plan**

The North Plainfield Master Plan recognizes the need to encourage development and redevelopment on the limited developable land in the Borough. This Housing Plan promotes higher density compact forms of housing and mixed-use development in appropriate locations served by existing infrastructure and proximate to transit, stores and services, and is therefore consistent with the State Plan.

## Appendices

- Appendix 1: Affordable Housing Sites
- Appendix 2: Vacant Land Adjustment
- Appendix 3: "Old Mill" Site Suitability Analysis
- Appendix 4: Spending Plan
- Appendix 5: Draft Zoning Amendments





Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community, Maxar

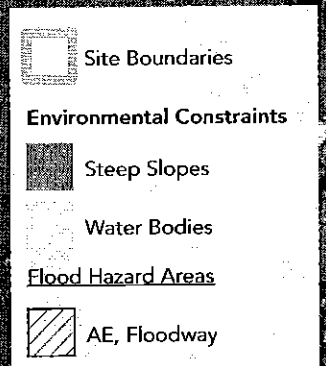
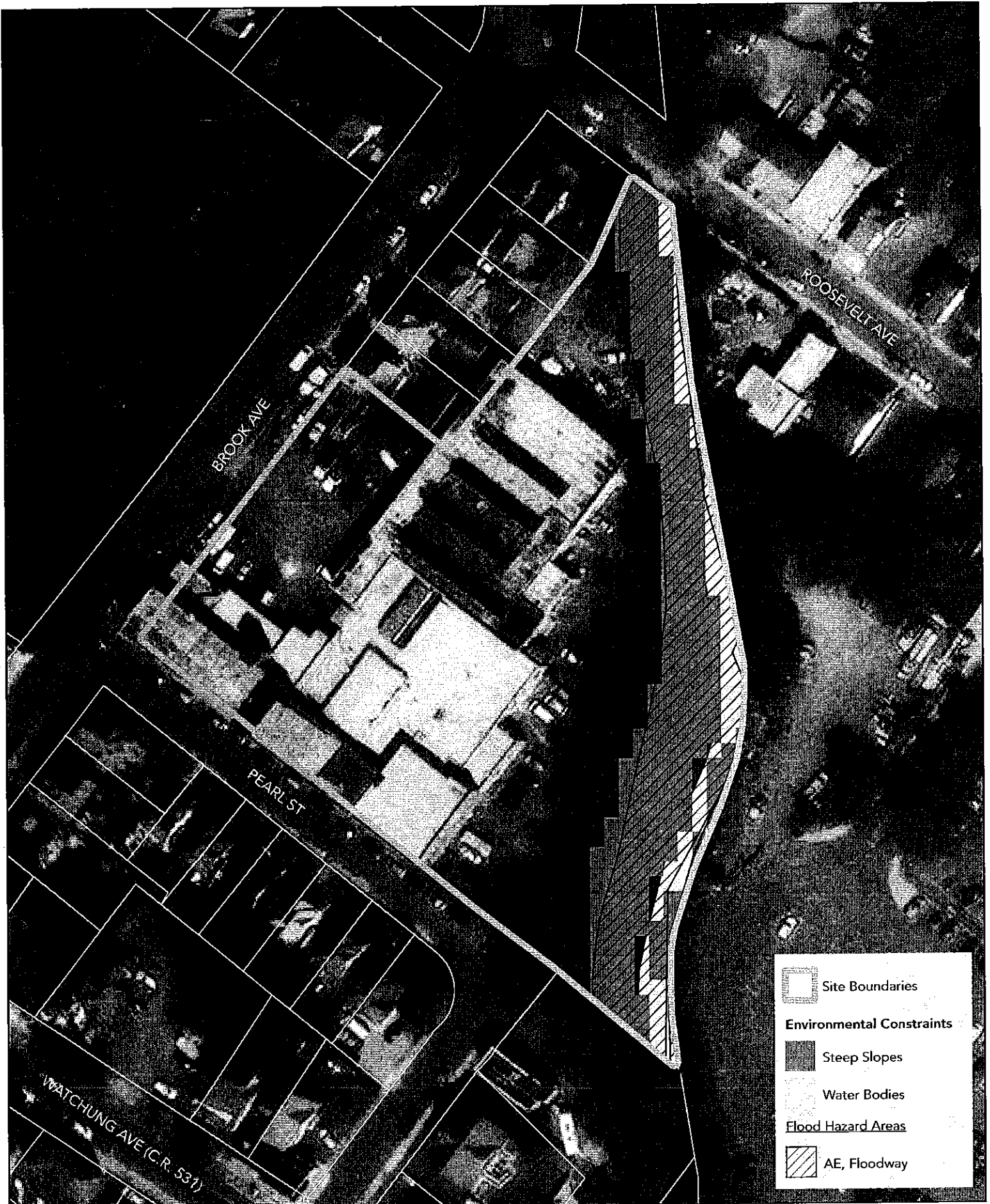
## Appendix 2: Vacant Land Adjustment

Constrained Acreage	Constraint Description	Remaining Acreage	Remaining Acreage > 0.83?	D
			N	
			N	
			N	
1.09	Flood hazard areas, water body, steep slopes	0.43	N	
0.22	Flood hazard areas, water body, steep slopes	0.57	N	
0.29	Wetlands	0.22	N	
0.14	Wetlands	0.02	N	
0.27	Wetlands	0.38	N	
0.00	None	0.8586	Y	
0.11	steep slopes	1.27	Y	
0.01	steep slopes	3.71	Y	
3.20	Wetlands	0	N	
0.45	Wetlands	3.95	Y	
1.27	Wetlands	2.32	Y	
0.32	Steep slopes	0.89	Y	
0.06	steep slopes	3.53	Y	
			N	
0.79	Flood hazard areas and steep slopes	3.71	Y	
0.00	None	1.194	Y	
			N	
			N	
			N	
			N	
			N	
			N	
			N	
			N	
			N	
			N	
0.00	None	1.147	Y	









### Appendix 3: "Old Mill Site" Block 43, Lot 6 Site Suitability Analysis



**DRAFT****Affordable Housing Trust Fund Spending Plan  
Borough of North Plainfield  
April 2025****INTRODUCTION**

The Borough of North Plainfield, Somerset County has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH and the Superior Court and adopted by the municipality. The ordinance establishes the North Plainfield affordable housing trust fund for which this spending plan is prepared.

As of December 31, 2024, the North Plainfield affordable housing trust fund had a balance of \$205,958. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Unity Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

The Borough reserves the right and authority to further amend or modify the within spending plan to address or take into account changes which may be warranted due to new rules or rule amendments or judicial determinations, which may change standards or establish new criteria for the Borough to address its affordable housing obligation.

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**1. REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated during the Fourth Round, North Plainfield 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.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows: none.

(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 and proceeds from the sale of affordable units. No other funds have been or are anticipated to be collected.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

No large development projects are anticipated in the coming years due to the lack of vacant and developable land in North Plainfield.

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<b>SOURCE OF FUNDS</b>		<b>PROJECTED REVENUE SCHEDULE JANUARY 1, 2025-JUNE 30, 2035</b>				
		<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
<b>(a) Development fees:</b>						
1. Approved Development		\$0	\$0	\$0	\$0	\$0
2. Development Pending Approval		\$0	\$0	\$0	\$0	\$0
3. Projected Development		\$7,500	\$7,500	\$7,500	\$7,500	\$7,500
<b>(b) Payments in Lieu of Construction</b>		\$0	\$0	\$0	\$0	\$0
<b>(c) Other Funds (Specify source(s))</b>		\$0	\$0	\$0	\$0	\$0
<b>(d) Interest</b>		\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
<b>Total</b>		<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>
	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<b>2035</b>	<b>Total</b>
<b>(a) Dev. fees:</b>						
1. Appr.	\$0	\$0	\$0	\$0	\$0	\$0
2. Pending	\$0	\$0	\$0	\$0	\$0	\$0
3. Projected	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$75,000
<b>(b) In Lieu</b>		\$0	\$0	\$0	\$0	\$0
<b>(c) Other</b>		\$0	\$0	\$0	\$0	\$0
<b>(d) Interest</b>		\$1,000	\$1,000	\$1,000	\$1,000	\$10,000
<b>Total</b>		<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>	<b>\$85,000</b>

North Plainfield projects a total of \$85,000 in revenue to be collected between January 1, 2025 and June 30, 2035. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

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**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 North Plainfield:

(a) Collection of development fee revenues:

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

(b) Distribution of development fee revenues:

The disbursement of monies in North Plainfield's affordable housing trust fund will be coordinated by its Municipal Housing Liaison. In some instances, funds will be provided to other entities, such as an entity responsible for administering a rehabilitation program, for eventual disbursement.

**DRAFT****3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS****(a) Rehabilitation program (N.J.A.C. 5:97-8.7)**

North Plainfield will dedicate \$298,335 to its rehabilitation program.

**(b) Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

Actual development fees and other income through 12/31/2024		\$205,958
Development fees projected 2025-2035	+	\$75,000
Interest projected 2025-2035	+	\$10,000
<b>Total</b>	=	\$290,958
30 percent requirement	x 0.30 =	\$87,287
Less Affordability assistance expenditures through 12/31/2024	-	\$0
<b>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2025 through 6/30/2035</b>	=	\$87,287
<b>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2025 through 6/30/2035</b>	÷ 3 =	\$29,096

North Plainfield will dedicate \$87,300 from the affordable housing trust fund to render units more affordable, including \$29,100 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

North Plainfield will address this requirement through subsidizing the provision of very low-income housing and through other means such as 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.

**(c) Administrative Expenses (N.J.A.C. 5:97-8.9)**

North Plainfield projects that \$50,000 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Administering a housing rehabilitation program
- Managing the provision of affordability assistance to low-income households
- Provision of professional planning and legal services related to the planning for affordable housing

**DRAFT****4. EXPENDITURE SCHEDULE**

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

<b>Program</b>		<b>PROJECTED EXPENDITURE SCHEDULE</b>				
		<b>JANUARY 1, 2025-JUNE 30, 2035</b>				
		<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Rehabilitation		\$ 15,366	\$ 15,366	\$ 15,366	\$15,366	\$15,366
Affordability Assistance		\$ 8,730	\$ 8,730	\$ 8,730	\$ 8,730	\$ 8,730
Administration		\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000
<b>Total</b>		<b>\$ 29,096</b>	<b>\$ 29,096</b>	<b>\$ 29,096</b>	<b>\$29,096</b>	<b>\$29,096</b>
	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<b>2035</b>	<b>Total</b>
Rehab.	\$15,366	\$15,366	\$15,366	\$15,366	\$15,366	<b>\$153,658</b>
Aff. Asst.	\$ 8,730	\$ 8,730	\$ 8,730	\$ 8,730	\$ 8,730	<b>\$ 87,300</b>
Admin.	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	<b>\$ 50,000</b>
<b>Total</b>	<b>\$29,096</b>	<b>\$29,096</b>	<b>\$29,096</b>	<b>\$29,096</b>	<b>\$29,096</b>	<b>\$290,958</b>

**DRAFT****5. EXCESS OR SHORTFALL OF FUNDS**

Pursuant to the Housing Element and Fair Share Plan, the governing body of North Plainfield will adopt a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation program, providing affordability assistance and helping with the creation of new affordable housing. In the event that a shortfall of anticipated revenues occurs, North Plainfield will utilize a capital ordinance to provide the necessary funds. A copy of the adopted resolution of intent to adopt such an ordinance if necessary is attached.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to provide affordability assistance, aid with the rehabilitation of units and/or encourage provision of affordable accessory apartments.



**DRAFT****SUMMARY**

North Plainfield intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in its housing element and fair share plan.

North Plainfield had a balance of \$205,958 as of December 31, 2024 and anticipates an additional \$85,000 in revenues from 2025 to 2035. The municipality will dedicate \$153,658 towards rehabilitation, \$87,300 to render units more affordable, and \$50,000 to administrative costs. Any shortfall of funds will be offset by funds appropriated from general revenue. The municipality will dedicate any excess funds toward providing affordability assistance, aiding with the rehabilitation of units and/or encouraging provision of affordable accessory apartments.

<b>SPENDING PLAN SUMMARY</b>		
Balance as of December 31, 2024		\$205,958
<b>PROJECTED REVENUE 2025-2035</b>		
Development fees	+	\$75,000
Payments in lieu of construction	+	\$0
Other funds	+	\$0
Interest	+	\$10,000
<b>TOTAL REVENUE</b>	=	\$290,958
<b>EXPENDITURES</b>		
Funds used for Rehabilitation	-	\$153,658
Affordability Assistance	-	\$87,300
Administration	-	\$50,000
<b>TOTAL PROJECTED EXPENDITURES</b>	=	\$290,958
<b>REMAINING BALANCE</b>	=	\$0

**DRAFT****Proposed Affordable Housing Zoning Amendments**  
**Borough of North Plainfield**

**Note:** additions shown in underline, deletions in ~~strikethrough~~

**22-113B AHO AFFORDABLE HOUSING OVERLAY ZONE****22-113B.1 Uses.**

In the AHO Affordable Housing Overlay Zone, in addition to any use permitted in the underlying zone district, multifamily residential development is permitted with development incentives for the provision of affordable housing.

**22-113B.2 Required Conditions.**

- a. Height. No building shall exceed a height of five (5) stories or sixty (60) feet.
- b. Minimum Lot Area. There shall be a minimum lot area of forty thousand (40,000) square feet.
- c. Front Yard. There shall be a front yard of not less than ten (10) feet along any street.
- d. Rear Yard. There shall be a rear yard of not less than ten (10) ~~twenty-five (25)~~ feet.
- e. Side Yards. The minimum side yard width shall be fifteen (15) feet.
- f. Maximum Building Coverage. The total ground floor area of all buildings shall not exceed forty (40%) percent of the total lot area.
- g. Maximum Impervious Coverage. The total area of all impervious surfaces shall not exceed ninety (90%) ~~eighty-five (85%)~~ percent of the total lot area.
- h. Maximum Gross Residential Density. The maximum gross residential density shall be forty two (42) ~~thirty-five (35)~~ dwelling units/acre, which shall be considered a “compensatory benefit” in exchange for the required provision of low- and moderate-income dwelling units as required by Subsection 22-113B.3.
- i. Off-Street Parking and Loading Requirements. Off-street parking and loading shall be provided in accordance with Section 22-117 of the Borough Code, except that the minimum off-street parking requirements shall be as follows:

<b>Bedrooms</b>	<b>Spaces (Parking)</b>
0	1.00

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1	1.50
2	1.75
3 or more	2.00

- i. Landscaping. All portions of the property surrounding the principal building not used for off-street parking or loading shall be landscaped with ornamental trees, shrubs and grass lawn area, subject to approval by the Approving Authority.
- j. Lighting. All on-site lighting in connection with off-street parking, pedestrian walkways and/or building lighting shall be so arranged and shielded as to reflect the light downward and away from adjoining streets or properties.
- k. Signs. Signs shall comply with the requirements of Section 22-119 of the Borough Code.

**DRAFT****Proposed Affordable Housing Zoning Amendments**  
**Borough of North Plainfield**

**Note:** additions shown in underline, deletions in ~~strikethrough~~

**ARTICLE IX AFFORDABLE HOUSING****22-131 AFFORDABLE HOUSING REGULATIONS****22-131.1. Purpose and applicability.**

The purpose of this chapter is to include provisions addressing the Borough of North Plainfield's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Administrative Director of the Courts Supreme Court and as stipulated by P.L.2024, c. 2 and N.J.S.A. 52:27D-301 et seq. (the amended Fair Housing Act). ~~-These regulations supersede consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented, and N.J.A.C 5:94-1 et seq, as amended and supplemented N.J.A.C. 5:80-26.1 et seq., as amended and supplemented., where applicable, which otherwise remain valid, and the New Jersey Fair Housing Act of 1985. P.L. 2024, c.2 established the Affordable Housing Dispute Resolution Program ("Dispute Resolution Program"), which provides a new process for municipalities to come into constitutional compliance with their affordable housing obligations. This chapter is intended to assure compliance with the foregoing provisions and with the regulations of the Council on Affordable Housing ("COAH") set forth at N.J.A.C. 5:93-1 et seq., and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, including provisions for unit affordability controls as well as eligibility for low- and moderate-income households. This chapter shall apply except where inconsistent with applicable law.~~

**22-131.2. Intent.**

It is the intent of this chapter to regulate the development and management of low- and moderate-income units constructed in compliance with the Housing Plan Element and Fair Share Plan of the Borough of North Plainfield.

**22-131.3. Reporting requirements.**

- a. Trust fund activity. North Plainfield shall comply with the reporting requirements set forth in N.J.S.A. 52:27D-329.2~~On the first (1<sup>st</sup>) anniversary of the entry of the order granting North Plainfield a final judgment of certification of compliance and repose in In re Borough of North Plainfield Compliance with Mount Laurel Third Fourth (4th 3<sup>rd</sup>) Round Affordable Housing Obligation, 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, the Dispute Resolution Program, Council on Affordable Housing or Division of Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of 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.~~
- b. Affordable housing activity. North Plainfield shall comply with the reporting requirements set forth in N.J.S.A. 52:27D-329.4~~On the first (1<sup>st</sup>) anniversary of the entry of the order granting North Plainfield a final judgment of compliance and repose in In re Borough of~~

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~~North Plainfield Compliance with Mount Laurel Third Fourth Round Affordable Housing Obligation, 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 municipal 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 adjudicator and Fair Share Housing Center. For the midpoint realistic opportunity review due on July 1, 20202035, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its affordable housing 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.~~

- e. ~~Very low income housing. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third (3<sup>rd</sup>) anniversary of the entry of the order granting North Plainfield a final judgment of compliance and repose in *In re Borough of North Plainfield Compliance with Mount Laurel Third Fourth Round Affordable Housing Obligation*, and every third (3<sup>rd</sup>) year thereafter, the Borough will post on its municipal website, with copies provided to Fair Share Housing Center, 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 Center, on the issue of whether the Borough has complied with its very low income housing obligation.~~

**22-131.4. Definitions.**

The following terms when used in this chapter 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.), as amended through P.L. 2024, c.2.

**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 chapter, the regulations of the amended Fair Housing Act (P.L.1985, c. (N.J.S.A. 52:27D-301 et seq.)), Council on Affordable Housing set forth at N.J.A.C. 5:93 et seq, and the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26 et seq.

**AFFIRMATIVE MARKETING**

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.165.

**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.

**DRAFT****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, 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. 5:80-26.76, 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. 5:80-26.132, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT**

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

**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 Fair Housing Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

**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.).

**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 sixty-two (62) years of age or older; or 2) at least eighty (80%) percent of the units are occupied by one person who is fifty-five (55) years of age or older; or, 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons," as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ALTERNATIVE LIVING ARRANGEMENTS**

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 State of 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 State of 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 (4) or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**BOROUGH**

The Borough of North Plainfield, in Somerset County, New Jersey.

**DRAFT****CERTIFIED HOUSEHOLD**

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

**COAH or THE COUNCIL**

The Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), prior to its abolition through P.L.2024, c.2.

**DCA**

The State of New Jersey, Department of Community Affairs.

**DISPUTE RESOLUTION PROGRAM**

The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

**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.

**FAIR SHARE PLAN**

The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of P.L.1985, c.222 (N.J.S.A. 52:27D-301 et seq.), ~~N.J.A.C. 5:93-5.~~

**HOUSING ELEMENT**

The portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.S.A. 52:27D-301 et seq., ~~which supersedes N.J.A.C. 5:93-5.1~~ and establishes the Borough's fair share obligation.

**INCLUSIONARY DEVELOPMENT**



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

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to fifty (50%) percent or less of the regional median household income by household size.

**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 the Affordable Housing Professionals of New Jersey or other COAH or an successor entity approved by the court.

**MODERATE-INCOME HOUSEHOLD**

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

**MODERATE-INCOME UNIT**

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

**MULTIFAMILY UNIT**

A structure containing five (5) or more dwelling units.

**NON-EXEMPT SALE**

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

**RANDOM SELECTION PROCESS**

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

**REGIONAL ASSET LIMIT**

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The maximum housing value in each housing region affordable to a four-person household with an income at eighty (80%) percent of the regional median as defined by duly adopted Regional Income Limits published annually by the Affordable Housing Professionals of New Jersey or other COAH or an successor entity approved by the court.

**REHABILITATION**

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

**RENT**

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

**RESTRICTED UNIT**

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

**UHAC**

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

**VERY LOW-INCOME HOUSEHOLD**

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

**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.

**22-131.5. Inclusionary zoning requirements.** To create realistic opportunities for the construction of affordable housing, any residential development consisting of ~~ten-six (106)~~ or more dwelling units, at a density above six (6) units per acre, that is permitted pursuant to a variance or rezoning shall comply with the following:

- a. A minimum of fifteen (15%) percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for rent. If the calculation of the total number of affordable units required yields a fraction of less than one-half of a unit (0.5) then either a pro-rated payment in lieu or one (1) additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than one-half of a unit (0.5), the obligation shall be rounded up and the additional unit shall be provided.
- b. A minimum of twenty (20%) percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for sale. If the calculation of the total number of affordable units required yields a fraction of less than one-half of a unit (0.5), then either a pro-rated payment in lieu or one additional unit shall be provided. If

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the calculation of the total number of affordable units required yields a fraction of greater than one-half of a unit (0.5), the obligation shall be rounded up and the additional unit shall be provided.

Inclusionary developments shall adhere to the following project phasing schedule requirements as set forth in UHAC, N.J.A.C. 5:80-26.1 et seq, as amended and supplemented.:

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

**Design:**

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.

**22-131.6. New construction**

The required income and bedroom distributions of affordable housing units shall be as set forth in UHAC, N.J.A.C. 5:80-26.1 et seq, as amended and supplemented.

- a. Low/moderate split and bedroom distribution of affordable housing units:
  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.
  2. At least thirteen (13%) percent of all restricted rental units within each bedroom distribution shall be very low-income units (affordable to a household earning thirty (30%) percent 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.
  3. At least twenty five (25%) percent of the obligation shall be met through rental units, including at least half in rental units available to families.
  4. A maximum of twenty five (25%) percent of the Borough's obligation may be met with age restricted units. At least half of all affordable units in the Borough's Plan shall be available to families.
  5. In each affordable development, at least fifty (50%) percent of the restricted units within each bedroom distribution shall be low-income units including that thirteen (13%) percent shall be very-low income.
  6. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

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- (a) The combined number of efficiency and one-bedroom units shall be no greater than twenty (20%) percent of the total low- and moderate-income units;
  - (b) At least thirty (30%) percent of all low- and moderate-income units shall be two-bedroom units;
  - (c) At least thirty (20%) percent of all low- and moderate-income units shall be three-bedroom units; and,
  - (d) The remaining units may be allocated among two (2) and three (3)-bedroom units at the discretion of the developer.
- 7. 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 (1)-bedroom units or by having a two (2)-bedroom unit for each efficiency unit.
- b. Accessibility requirements:
  - 1. The first (1<sup>st</sup>) 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.
  - 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 (1) one other dwelling unit shall have the following features:
    - (a) An adaptable toilet and bathing facility on the first (1<sup>st</sup>) floor; and,
    - (b) An adaptable kitchen on the first (1<sup>st</sup>) floor; and,
    - (c) An interior accessible route of travel on the (1<sup>st</sup>) first floor; and,
    - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first (1<sup>st</sup>) floor; and,
    - (e) If not all of the foregoing requirements in 2.(a) through 2.(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 paragraphs 2.(a) through 2.(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 the Borough has collected funds from the developer sufficient to make ten (10%) percent 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 affordable housing trust fund sufficient to install accessible entrances in ten (10%) percent of the affordable units that have been constructed with adaptable entrances.

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- (3) The funds deposited under paragraph (f)(2) above shall be used by the Borough 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 Borough Construction Official 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's 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.

c. Maximum rents and sales prices:

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty (60%) percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty two (52%) percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning thirty (30%) percent or less of the regional median household income, with such very low-income units counted toward the low-income housing requirement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70%) percent of median income, and each affordable development must achieve an affordability average of fifty five (55%) percent 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 (2) 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 unit shall be affordable to a one (1)-person household;

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- (b) A one (1)-bedroom unit shall be affordable to a one and one-half (1 ½)-person household;
  - (c) A two (2)-bedroom unit shall be affordable to a three (3)-person household;
  - (d) A three-(3) bedroom unit shall be affordable to a four and one-half (4 ½)-person household; and
  - (e) A four (4)-bedroom unit shall be affordable to a six (6)-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 (1)-person household;
  - (b) A one (1)-bedroom unit shall be affordable to a one and one-half (1 ½)-person household; and,
  - (c) A two (2)-bedroom unit shall be affordable to a two (2)-person household or to two (2) one (1)-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to ninety-five (95%) percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight (28%) percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.54, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.43, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty (30%) percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.54, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.43, 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 Regional Income Limits chart. This increase shall not exceed nine (9%) percent in any one (1) 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.

**22-131.7. Utilities.**

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



**DRAFT****22-131.8. Occupancy Standards.**

- a. In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
  - 1. Provide an occupant for each bedroom;
  - 2. Provide children of different sexes with separate bedrooms;
  - 3. Provide separate bedrooms for parents and children; and,
  - 4. Prevent more than two (2) persons from occupying a single bedroom.

**22-131.9. 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. 5:80-26.65, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this chapter for a period of at least thirty (30) years and thereafter until the Borough takes action by ordinance to release the unit from such requirements. Prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- b. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- c. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- d. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this chapter, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- e. The affordability controls set forth in this chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- f. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all Uniform Construction Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.65(a), as may be amended and supplemented.

**22-131.10. Price restrictions for restricted ownership units, homeowner association fees and resale prices.**

- a. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
  - 1. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.



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2. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

**22-131.11. Buyer Income Eligibility.**

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty (80%) percent of median income.
- b. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Mayor and 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.
- 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 (1) year.
- d. The administrative agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed thirty-three (33%) percent of the household's eligible monthly income.

**22-131.12. Limitations on indebtedness secured by ownership unit; subordination.**

- a. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the administrative agent shall issue such determination prior to the owner incurring such indebtedness.
- b. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety five (95%) percent 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. 5:80-26.7(c).

**22-131.13. Capital improvements to ownership units.**

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- a. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- b. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10)-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**22-131.14. Control periods for restricted rental units.**

- a. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.142, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this chapter for a period of at least thirty (30) years and thereafter until the Borough takes action by ordinance to release the unit from such requirements. Prior to such action, a restricted rental unit shall 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 thirty (30) year compliance period plus a fifteen (15) year extended use period shall be required.
- 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 Somerset. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the administrative agent within thirty (30) calendar days of the receipt of a certificate of occupancy.
- c. A restricted rental unit shall remain subject to the affordability controls of this chapter 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.

**22-131.15. Rent restrictions for rental units; leases.**

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

**22-131.16. Tenant income eligibility.**

- a. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.134, as may be amended and supplemented, and shall be determined as follows:
  - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to thirty (30%) percent of median income.
  - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income.
  - 3. Moderate-income rental units shall be reserved for households with a gross household income less than eighty (80%) percent of 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 thirty-five (35%) percent (forty (40%) percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.167, as may be amended and supplemented; provided, however, that this limit may be exceeded if one (1) or more of the following circumstances exists:
  - 1. The household currently pays more than thirty-five (35%) percent (forty (40%) percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - 2. The household has consistently paid more than thirty-five (35%) percent (forty (40%) percent 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.

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- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in b.1 through 5 above with the administrative agent, who shall counsel the household on budgeting.

**22-131.17. Municipal housing liaison.**

- a. The Borough 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. The Borough shall adopt an ordinance creating the position of municipal housing liaison. The Borough 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 the Borough, including the following responsibilities which may not be contracted out to the administrative agent:
  - 1. Serving as the Borough's 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 the Borough's Fair Share Plan;
  - 3. Compiling, verifying and submitting annual monitoring reports as may be required by the court;
  - 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.
- c. Subject to the approval of the court, the Borough 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).

**22-131.18. Administrative agent.**

The administrative agent shall be an independent entity serving under contract to and reporting to the Borough. 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 three percent 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 N.J.A.C 5:80-26.145, 176 and 198 thereof, which include:

- a. Affirmative marketing:

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1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Borough's affirmative marketing plan and the provisions of N.J.A.C. 5:80-26.165; and,
  2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- b. Household certification:
1. Soliciting, scheduling, conducting and following up on interviews with interested households;
  2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and,
  6. Employing a random selection process as provided in the affirmative marketing plan of the Borough when referring households for certification to affordable units.
  7. Notifying the following entities of the availability of affordable housing units in the Borough of North Plainfield: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Supportive Housing Association, and the New Jersey Housing Resource Center.
- c. Affordability controls:
1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Somerset County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
  4. Communicating with lenders regarding foreclosures; and
  5. Ensuring the issuance of continuing certificates of occupancy or certifications, pursuant to N.J.A.C. 5:80-26.110.
- d. Resales and rentals:
1. Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and,

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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 re-rental.
- e. Processing requests from unit owners:
1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Chapter;
  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 Borough 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 Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
  2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
  3. Posting annually in all rental properties, including two (2)-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. 5:80-26.198(d)4;
  5. Establishing a program for diverting unlawful rent payments to the Borough'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 Mayor and 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 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.



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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.

**22-131.19. Affirmative marketing requirements.**

- a. The Borough shall adopt by resolution an affirmative marketing plan, subject to approval of the court, that is compliant with N.J.A.C. 5:80-26.165, 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. In addition, the affirmative marketing plan shall maintain certain notification requirements. It is a continuing program that directs marketing activities toward Housing Region 3 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 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- d. The Borough 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 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 (4) months (120 calendar 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 Borough 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. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in North Plainfield, and copies of the applications forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Supportive Housing Association; and, the New Jersey Housing Resource Center.
- j. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

**DRAFT****22-131.20. 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 Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the Borough may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of sixty (60) calendar days after service of the written notice:
  1. The Borough 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 five-hundred (\$500.00) dollars per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
    - (b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough affordable housing trust fund of the gross amount of rent illegally collected; and,
    - (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 Borough 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 Borough, 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 Borough, 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 Borough for any and all costs and expenses incurred in connection with

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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 Borough 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 Borough 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 Borough for the owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the owner shall make a claim with the Borough for such. Failure of the owner to claim such balance within the two (2)-year period shall automatically result in a forfeiture of such balance to the Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the owner or forfeited to the Borough.

- (c) Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Borough 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 Borough shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Borough, 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.

**22-131.21. Appeals.**

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

**DRAFT****Part 2 Development Fees****22-131.22. Purpose.**

- a. In Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the then functioning Council on Affordable Housing's (COAH's) adoption of rules.
- b. Pursuant to P.L. 2008, c. 46, § 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH ~~is~~ 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~~ were under the jurisdiction of the Council or court of competent jurisdiction and ~~have had~~ had a COAH-approved spending plan ~~may were able to~~ retain fees collected from nonresidential development.
- c. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 ~~are were~~ are under the Court's jurisdiction and ~~are were~~ are subject to approval by the Court.
- d. Pursuant to P.L.2024, c. 2, the authority relating to rulemaking on the collection of residential and non-residential development fees is appropriately delegated to the Department of Community Affairs, following the abolition of COAH. As such, municipalities which have obtained or are in the process of seeking compliance certification may retain and expend these development fees.
- e. This Part 2 establishes standards for the collection, maintenance, and expenditure of development fees pursuant to P.L.2024, c. 2, which amend those regulations originally established ~~COAH's regulations and in accordance with P.L. 2008, c. 46, §§ 8 and 32 through 38, and supersede COAH's regulations where in conflict, which remain otherwise valid.~~ 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 framework of COAH's rules on development fees, codified at N.J.A.C. § 5:93-8.~~

**22-131.23. Basic requirements.**

This Part 2 shall become effective at such time that the ~~Superior Court~~ Dispute Resolution Program approves the Borough's development fee ordinance, in accordance with P.L.2024, c. 2, and N.J.A.C. 5:93-8, as applicable.

**22-131.24. 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 one-hundred-percent-affordable development.

**COAH or THE COUNCIL**

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The Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), prior to its abolition through P.L.2024, c.2.

**DEVELOPMENT FEES**

Funds paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

**DEVELOPER**

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

**DISPUTE RESOLUTION PROGRAM**

"Dispute Resolution Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

**EQUALIZED ASSESSED VALUE**

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

**GREEN BUILDING STRATEGIES**

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

**22-131.25. Residential development fees.**

- a. Imposed fees.
  1. Within all zone districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent 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 shall be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two (2)-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 (2)-year period preceding the filing of the variance application.
- b. Eligible exactions, ineligible exactions and exemptions for residential development.
  1. Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees unless exempted below.



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2. Developers of low- and moderate-income units shall be exempt from paying development fees.
3. Developments that have received preliminary or final approval prior to the effective date of the Borough's amended development fee ordinance shall be subject to the law in effect at the time of such approval, unless the developer seeks a substantial change in the approval.
4. All single-family residential additions, renovations and accessory structures shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
5. All multi-family additions, renovations and accessory structures not requiring site plan approval shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
6. Homes replaced as a result of a natural disaster (such as fire or flood) shall be exempted from the payment of a development fee.

**22-131.26. Nonresidential development fees.**

- a. Imposed fees.
  1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent 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, shall also pay a fee equal to two and one-half (2.5%) percent 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 two and one-half (2.5%) percent shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and 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 (0).
- 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 two and one-half (2.5%) percent development fee, unless otherwise exempted below.
  2. The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
  3. The two and one-half (2.5%) percent fee shall not apply to developers of any not-for-profit use; federal, state and municipal government uses; churches and other places of worship; and public schools.
  4. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required

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pursuant to P.L. 2008, c. 46, as amended and supplemented, as specified in the Form N-RDF "State of New Jersey-Non-Residential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.

5. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, as amended and supplemented, 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 (3) years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
6. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty five (45) calendar days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

**22-131.27. Collection of fees.**

- 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 Non-Residential Development Certification/Exemption," to be completed as per the instructions provided. The Developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within ninety (90) calendar 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 ten (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 fail to determine or notify the developer of the amount of the development fee within ten (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 § 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6), as amended and supplemented.



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- h. Fifty percent (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 the time of issuance of the building permit and that determined at issuance of the certificate of occupancy.
- 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. 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 ninety (90) calendar 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 forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Borough. 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 ninety (90) calendar days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**22-131.28. Affordable Housing Trust Fund.**

- a. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
  - 1. Payments in lieu of on-site construction of affordable units;
  - 2. Developer-contributed funds to make ten (10%) percent 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's affordable housing program.
- a. In the event of a failure by the Borough of North Plainfield 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

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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 North Plainfield, 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 non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, 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.

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

**22-131.29. 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's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, 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.S.A. 52:27D-301 et seq. and N.J.A.C. 5:93-8, as applicable, and specified in the approved spending plan.
- b. Development fee revenues shall not be expended to reimburse the Borough for past housing activities.
- c. At least thirty (30%) percent 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 thirty (30%) percent or less of median income by region.
  - 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 thirty (30%) percent or less of median income may include buying down the cost of low- or moderate-income units in the third-round Municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income. The use of

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development fees in this manner shall entitle the Borough to bonus credits pursuant to N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:94-4.22, as applicable.

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 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, in accordance with N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:94-7, as applicable.
- e. No more than twenty (20%) percent 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 twenty (20%) percent 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 monitoring requirements for the affordable housing in in compliance with the Housing Element and Fair Share Plan. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's DCA or other court approved entity's regulations and/or action are not eligible uses of the affordable housing trust fund.

**22-131.30. Monitoring.**

North Plainfield shall comply with the reporting requirements set forth in N.J.S.A. 52:27D-329.2. On or about December 15<sup>th</sup> of each year through 20252035, the Borough shall provide annual reporting of trust fund activity to the New Jersey State Department of Community Affairs ("DCA"), COAH, or Local Government Services ("LGS"), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or LGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court.

**22-131.31. Ongoing collection of fees.**

The ability for the Borough to impose, collect and expend development fees shall expire with its judgment certification of compliance unless the Borough has filed an adopted Housing Element and Fair Share Plan with the ~~court~~ Dispute Resolution Program or other appropriate jurisdiction, has filed a Declaratory Judgment action and has received court approval of its development fee ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment Certification 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-320), as amended and supplemented. The Borough 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 retroactively impose a

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development fee on such a development. The Borough shall not expend development fees after the expiration of its substantive certification or Judgment of Compliance and Repose.

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**§ 22-133 — INCLUSIONARY HOUSING REQUIREMENTS FOR REZONING AND VARIANCES.**

~~Any residential development consisting of six or more dwelling units, at a density above six units per acre, that is permitted pursuant to a variance or rezoning, shall produce low and moderate income housing on site or elsewhere in the Borough. The number of affordable units to be provided shall be equal to 20% of the for sale residential units in the development or 15% for affordable rental units.~~