

RESOLUTION NO. P25-013

**BOROUGH OF SOUTH BOUND BROOK
JOINT PLANNING/ZONING BOARD**

**RESOLUTION ADOPTING A FOURTH ROUND
HOUSING ELEMENT AND FAIR SHARE PLAN**

HEARING DATE: June 18, 2025

MEMORIALIZED: June 18, 2025

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Borough of South Bound Brook (the “Borough”) adopted a “binding resolution” accepting the DCA-calculated Present Need and Prospective Need, as required by the Amended FHA, on January 14, 2025, established its Fourth Round Present Need of 67 and Prospective Need of 22; and

WHEREAS, in accordance with the Amended FHA and the Administrative Office of the Court’s Directive No. 14-24, the Borough filed a timely Fourth Round Declaratory Judgment complaint (“DJ Complaint”) with the Affordable Housing Dispute Resolution Program (“Program”), along with its binding resolution on January 16, 2025; and

WHEREAS, the filing of the Complaint gave the Borough automatic, continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits, which is still in force and effect; and

WHEREAS, on March 26, 2025, the Court entered an Order establishing the Borough's Fourth Round Present Need of 67 and Prospective Need of 22; and

WHEREAS, now that the Borough has its Fourth Round Obligations, the Amended FHA requires the municipality to adopt and endorse a Fourth Round Housing Element and Fair Share Plan by June 30, 2025; and

WHEREAS, in accordance with the Amended FHA, the Borough's affordable housing planners, Malvika Apte, PP AICP, and Nathan Foote, PP AICP, drafted a Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, on June 3, 2025, the Borough's Joint Planning Board and Zoning Board of Adjustment ("Joint Planning/Zoning Board") and the Borough Council ("Council") held a special meeting, during which Malvika Apte, PP AICP presented the Borough's Fourth Round Housing Element and Fair Share Plan ("HEFSP" or "Plan") to the Joint Planning/Zoning Board, Council, and members of the public; and

WHEREAS, on June 18, 2025, the Joint Planning/Zoning Board held a public Hearing on the Fourth Round HEFSP, where Nathan Foote, PP AICP, presented the Plan and answered questions related to the HEFSP from the Board and members of the public;

WHEREAS, two Board Members and numerous members of the public residing in the surrounding area of Block 57.02, Lot 1.03, where the proposed development of affordable units is situated, raised concerns and objected to the proposed location of the affordable units based on the following: potential increased traffic, safety, decreased home value, and loss of the existing use of parking for the Canal Crossing condominium residents and the public;

WHEREAS, the Joint Planning/Zoning Board, after review of the HEFSP and hearing the presentation and responses to questions by Borough Planners – Ms. Apte and Mr. Foote – determined that the attached Fourth Round HEFSP is consistent with the goals and objectives of the Borough's current Master Plan, and the adoption and implementation of the Fourth Round HEFSP is in the public interest and protects public health and safety and promotes the general welfare;

NOW THEREFORE BE IT RESOLVED by the Joint Planning/Zoning Board of the Borough of South Bound Brook, Somerset County, that the Joint Planning/Zoning Board hereby

adopts the Fourth Round Housing Element and Fair Share Plan attached hereto as **Exhibit A**.

Approved on June 18, 2025

Motioned, by: Christina Fischer

Seconded by: Michael John Tomaro

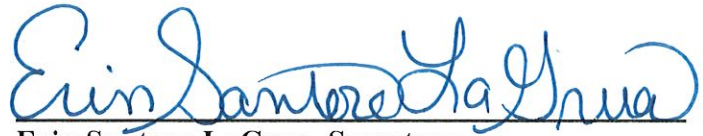
Ayes: 7

Nays: 2

Abstentions: None.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Joint Planning/Zoning Board of the Borough of South Bound Brook at a regular meeting held on the 18th day of June 2025.



Erin Santora LaGrua, Secretary
Borough of South Bound Brook
Planning Board/Zoning Board of Adjustment

EXHIBIT A

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

BOROUGH OF SOUTH BOUND BROOK

SOMERSET COUNTY, NEW JERSEY

Housing Plan Element & Fair Share Plan

Prior Round (Round I & II) (1987-1999)

Third Round (1999-2025)

Fourth Round (2025-2035)

June 4, 2025



Prepared by:



**Consulting & Municipal
ENGINEERS**

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The original document was appropriately signed and sealed in accordance with the Chapter 41 Title 13 of the State Board of Professional Planners.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

ACKNOWLEDGMENTS:

Borough of South Bound Brook Mayor and Council

Chris Shoffner – Mayor
Elizabeth Konkle – Borough Council President
Kathleen Conner – Councilperson
Richard Eickhorst – Councilperson
Anne Papenberg – Councilperson
Jimmy Shah – Councilperson
Shawn Wooden - Councilperson

Borough of South Bound Brook Land Use Board

Greg Bender – Chair
Chris Shoffner - Mayor
Elizabeth Konkle - Councilperson
Michael John Tomaro
Edward Murphy
Amish Shah
Darrus Long
Ral Faralla
Sean Friend – Alternate 1
Jaime Naylor – Alternate 2

Maria Vallejo, Esq. – Board Attorney
Robert J. Russo, PE – Board Engineer
Malvika Apte, PP, AICP – Board Planner
Erin Santora LaGrua - Board Secretary

Project Team

Malvika Apte, PP, AICP – Planning Department Director
Nathan Foote, PP, AICP – Senior Planner
Pooja Lakshmi Hegde – Associate Planner

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

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1. Resolution 2025-002
2. Vacant Land Analysis
3. Affordable Housing Ordinance Draft
4. Development Fee Ordinance Draft
5. Municipal Housing Liaison Resolution
6. Affordable Housing Overlay Ordinance Draft
7. Spending Plan

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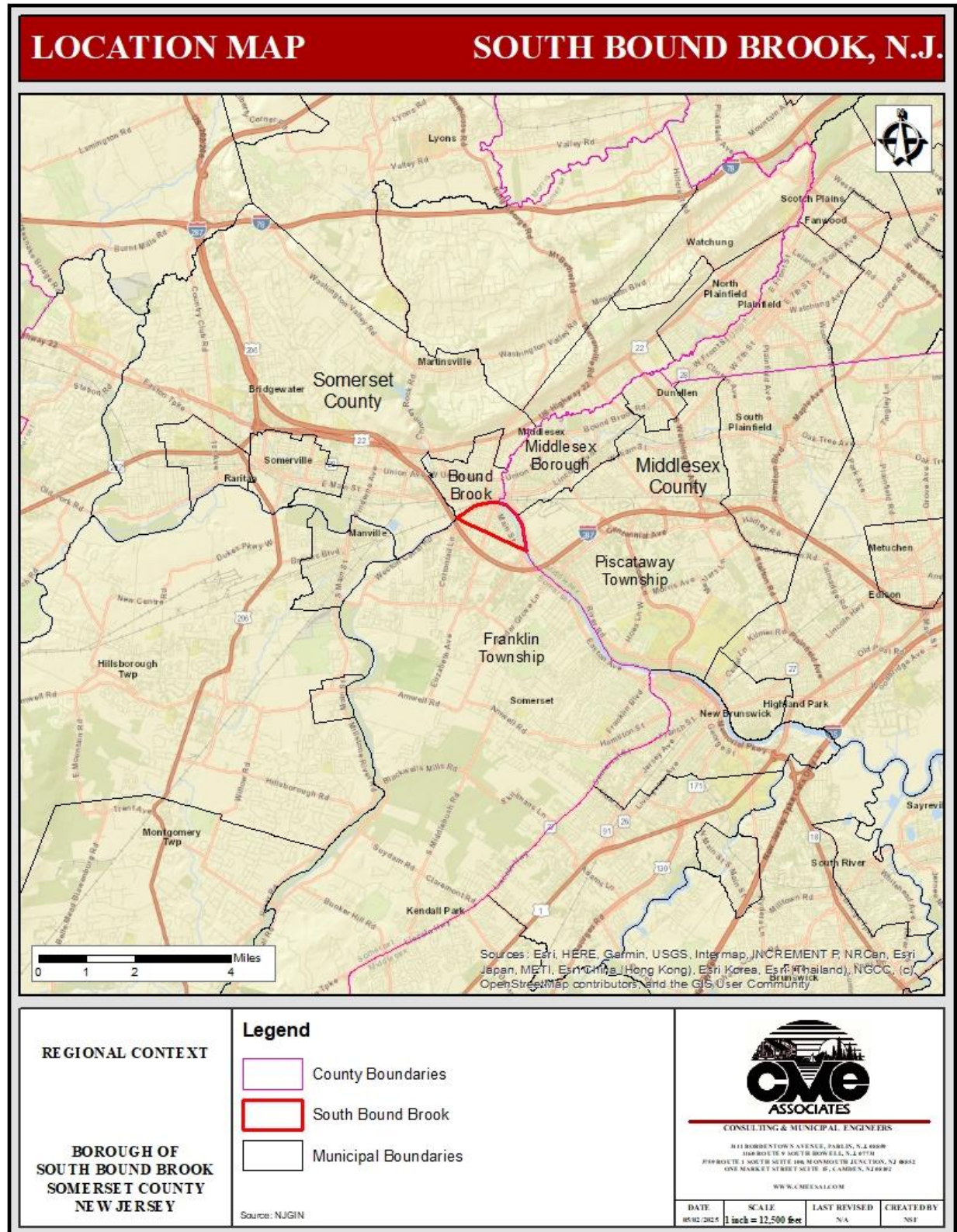
INTRODUCTION

LOCATION AND CONTEXT

The Borough of South Bound Brook is 0.74 square miles in size and is located in the eastern part of Somerset County, bordering on Middlesex County. Its neighboring municipalities are Bound Brook to the north, Piscataway Township to the east, and Franklin Township to the south. The main highways servicing the Township are Interstate 287, which is located just south of the Borough (through Franklin Township); and County Route 527 (Main Street), which runs down through the east side of the Borough, from the Raritan River to the Franklin Township border.

The Borough can be characterized as a developed suburban municipality and is mostly located in State Planning Areas PA-1 Metropolitan Planning Area. A small sliver of the northwest area of the Borough, along the Raritan River, is in the PA-5 Environmentally Sensitive Planning Area. South Bound Brook does not contain any designated centers.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan



Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

AFFORDABLE HOUSING

In 1975 the New Jersey Supreme Court determined, in *So. Burlington County NAACP v. Township of Mount Laurel* (“Mount Laurel I”) that every developing municipality in New Jersey had an affirmative obligation to provide a “realistic opportunity” for its fair share of low-and moderate-income housing. In 1983, frustrated with the lack of voluntary compliance, the Supreme Court sought to create an incentive for voluntary compliance in its “Mount Laurel II” decision. In this decision, the Court exposed municipalities that refused to comply voluntarily to the possibility of builder’s remedy relief. The Court also called for the state legislature to enact legislation that would save municipalities from the inefficiency of having the courts determine their affordable housing needs.

In 1985 the Legislature adopted the Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.) (“FHA”). The FHA created the New Jersey Council on Affordable Housing (COAH) and charged COAH with the responsibility of adopting regulations by which municipalities could determine their fair share responsibilities and the means by which they could satisfy those responsibilities. The Legislature also sought to promote voluntary compliance and empowered municipalities to submit to COAH’s jurisdiction and voluntarily comply under the protections of the COAH process.

Pursuant to the FHA, COAH adopted regulations for the first housing cycle in 1986; which covered the years 1987 through 1993 (“First Round”) and for the second housing cycle in 1994; which covered the years 1993 through 1999 (“Second Round”). Under both the First and Second Rounds, COAH utilized what is commonly referred to as the “fair share” methodology. COAH utilized a different methodology, known as “growth share,” beginning with its efforts to prepare Third Round housing-need numbers.

COAH first adopted the Third-Round rules in 2004; which were to cover the years 1999 through 2014. The “growth share” approach created a nexus between the production of affordable housing and future residential and non-residential development within a municipality, based on the principle that municipalities should provide affordable housing opportunities proportionate to their market rate residential growth, and that along with employment opportunities there should be proportionate opportunities for affordable housing. Each municipality was required to project the amount of residential and nonresidential growth that would occur during the period 2004 through 2014 and prepare a plan to provide proportionate affordable housing opportunities. The regulations were challenged and in January 2007, the New Jersey Appellate Division invalidated key aspects of COAH’s third round rules and ordered COAH to propose and adopt amendments to its rules to address the deficiencies it had identified.

COAH adopted new Third Round rules in May of 2008 and subsequently adopted amendments that became effective on October 20, 2008. Changes to the Fair Housing Act were also adopted in July of 2008 (P.L. 2008 c. 46 on July 17, 2008). The COAH rules and regulations adopted in 2008 were subsequently challenged, and in an October 2010 decision the Appellate Division invalidated the “Growth Share” methodology, and also indicated that COAH should adopt regulations pursuant to the “Fair Share” methodology utilized in the First and Second Rounds. The Supreme Court affirmed this decision in September 2013, invalidating the third iteration of the Third Round

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

regulations and sustaining the invalidation of growth share, and directing COAH to adopt new regulations pursuant to the methodology utilized in the First and Second Rounds. In October of 2014 COAH was deadlocked and failed to adopt their newly revised Third Round regulations. Fair Share Housing Center, who was a party in the earlier cases, responded by filing a motion in aid of litigants' rights with the New Jersey Supreme Court. On March 20, 2015, the Court ruled that COAH was effectively dysfunctional, and consequently returned jurisdiction of affordable housing issues back to the trial courts as it had been prior to the creation of COAH in 1986.

Since the 2015 Mt. Laurel IV decision, municipalities have turned to the courts to seek a declaratory judgement of their housing plans to determine whether they are meeting their constitutional affordable housing obligations, and to be granted immunity from any "builder's remedy" lawsuits. With no COAH functioning and providing guidance to municipalities to determine their municipal fair share of statewide and regional obligations, a number of independent groups produced their own reports to determine individual obligations across the state. In several court decisions in 2016 and 2018, judges in Middlesex and Mercer County developed a methodology following closely one proposed by Fair Share Housing Center to determine municipal obligations. In the 2018 decision by Judge Jacobson, it was further determined that the initial period of the Third Round which had not been addressed (1999 – 2015) known as the "gap period" is to be included in each municipality's fair share calculations.

In March of 2024, P.L. 2024, c.2 was signed into law establishing new procedures for determining statewide needs and municipal obligations for low and moderate income housing. This new law formally abolished COAH and established a new "Program" for resolving affordable housing disputes, as well as the authority to review and certify municipal fair share housing plans. The law required municipalities to determine their own fair share obligations by applying the methodology of the Jacobson decision in Mercer County as it related to the Third Round, and adopt a binding resolution setting those obligation numbers. The law also provided revisions to the crediting structures for affordable units, with changes to the types of affordable units that are permitted to be granted bonus credits. The law established timelines for submission of documents to demonstrate compliance with the Fair Housing Act.

On January 14, 2025, pursuant to the new amendments to the Fair Housing Act, the Borough adopted Resolution # 2025-002, determining (based on the New Jersey Department of Community Affairs (DCA) calculations) a present need obligation of 67 units, and a Fourth Round prospective need obligation of 22 units.

This Housing Plan Element and Fair Share Plan has been prepared in accordance with the requirements of P.L. 2024, c. 2, to satisfy the Borough's municipal obligation to provide for its fair share of the regional need for low and moderate income housing for the Fourth Round period of 2025 – 2035. This Plan also addresses the Borough's Prior Round obligations.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

HOUSING PLAN ELEMENT

According to the Municipal Land Use Law (MLUL) (40:55D-28.b(3)), a municipality is required to adopt a Housing Plan Element of the Master Plan, as well as a Fair Share Plan for addressing its low and moderate income housing obligations in accordance with the Fair Housing Act (FHA). Pursuant to the Fair Housing Act, Section 10 of P.L. 1985, c. 222 (C. 52:27D-310), a municipality's housing plan element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with attention to low- and moderate-income housing. This updated Housing Plan Element for the Borough of South Bound Brook has been prepared in a manner that is consistent with the FHA and MLUL requirements, and contains the following, as spelled out in the FHA:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
2. 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;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing; and
6. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low-and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.
7. A map of all sites designated by the municipality for the production of low- and moderate income-housing and a listing of each site that includes its owner, acreage, lot, and block;
8. The location and capacities and proposed water and sewer lines and facilities relevant to the designated sites;
9. Copies of necessary applications for amendments to, or consistency determinations regarding, applicable area-wide water quality management plans (including wastewater management plans).

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10. A copy of the most recently adopted master plan and where required, the immediately preceding, adopted master plan;
11. For each designated site, a copy of the New Jersey Freshwater Wetlands maps where available. When such maps are not available, municipalities shall provide appropriate copies of the National Wetlands Inventory maps provided by the U.S. Fish and Wildlife Service;
12. A copy of appropriate, United States Geological Survey Topographic Quadrangles for designated sites; and
13. Any other documentation pertaining to the review of the municipal housing element as may be required by the appropriate authority.

This Housing Plan Element and Fair Share Plan will address the Borough's obligations to provide a realistic opportunity for the construction of low- and moderate-income housing in accordance with the Fair Housing Act, the MLUL, and all guidance provided by the Department of Community Affairs (DCA) and the Affordable Housing Dispute Resolution Program (Program).

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

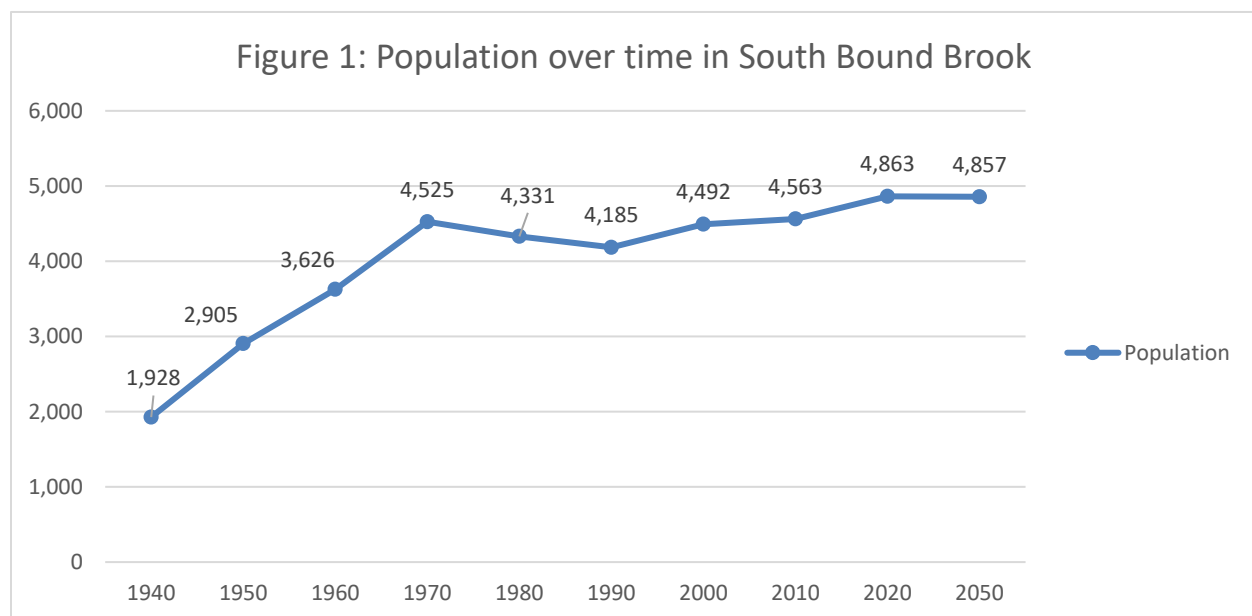
ANALYSIS OF DEMOGRAPHIC, HOUSING, AND EMPLOYMENT CHARACTERISTICS

As required by N.J.S.A. 52:27D-310, all housing elements must contain a discussion of the municipality's demographic, housing, and economic characteristics. The following subsections fulfill this requirement by providing a profile of the Borough's demographic, housing and employment characteristics based on information from the US Census Bureau, and the New Jersey Department of Labor and Workforce Development.

DEMOGRAPHICS**POPULATION**

The Borough of South Bound Brook has experienced moderate but steady growth over the past few decades. According to the 2020 U.S Census, the Borough's population stood at 4,863 residents. This marks a 6.57% increase from the 4,563 residents recorded in 2010, which reflected only a 1.58% growth from the 2000 U.S. Census. In comparison, Somerset County grew more rapidly from 2000 to 2010, with an 8.7% increase, and at a similar rate to the Borough between 2010 to 2020.

Table 1: Population Trends, 2000 - 2010					
	2000	2010	2020	Percent Change 2000-2010	Percent Change 2010-2020
South Bound Brook	4,492	4,563	4,863	1.58%	6.57%
Somerset County	297,490	323,444	345,361	8.72%	6.78%
<i>Source: US Census Bureau Decennial Census (Table DP-1)</i>					



Source: US Census Bureau, Decennial Census, North Jersey Transportation Planning Authority Demographic Forecasts

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The Borough's population growth between 1940 to 2050 (actual and estimated) is illustrated in Figure 1 above. As seen in the figure, population growth was strongest between 1940 and 1970, followed by slight declines in the 1980s and 1990s. It is, however, projected that the Borough's population might experience a slight dip by 2050, with an estimated population of 4,863.

POPULATION COMPOSITION BY AGE

The age composition of South Bound Brook has shifted noticeably since 2000, as shown in Table 2 below. According to the U.S. Census Bureau's Decennial Census Estimates, significant changes occurred between younger and older age groups. The number of elementary and pre-school-aged children has decreased significantly over this time period, as has the number of adults aged 35 to 44 years. Conversely, the Borough has seen a significant increase in the number of residents aged 55 years and older. The greatest percentage increase occurred in the 60 to 64 years, which grew by 132.6 percent, and in the 65 to 74 years, which grew by 82.3%.

Table 2: Population by Age Cohort, South Bound Brook, 2000 - 2020					
Population and Cohort Type	2000		2020		Percent Change 2000-2020
	Number	Percent	Number	Percent	
Total population	4,492	100%	4,863	100%	8.3%
Under 5 years	285	6.3%	281	5.8%	-1.4%
5 to 9 years	347	7.7%	287	5.0%	-17.3%
10 to 14 years	265	5.9%	239	4.9%	-9.8%
15 to 19 years	259	5.8%	246	5.1%	-5.0%
20 to 24 years	293	6.5%	270	5.6%	-7.9%
25 to 34 years	784	17.5%	858	17.6%	9.4%
35 to 44 years	841	18.7%	722	14.8%	-14.2%
45 to 54 years	619	13.8%	663	13.6%	7.1%
55 to 59 years	192	4.3%	339	7.0%	76.6%
60 to 64 years	135	3.0%	314	6.5%	132.6%
65 to 74 years	232	5.2%	423	8.7%	82.3%
75 to 84 years	176	3.9%	156	3.2%	-11.4%
85 years and over	64	1.4%	65	1.3%	1.6%
Source: US Census Bureau, Decennial Census (Table DP-1)					

Somerset County has also seen notable shifts in the age composition of its population over the past two decades, as shown in Table 3 below. The youngest cohorts saw steep declines, while the young adult cohort (15 to 19 years and 20 to 24 years) surged by 48.4% and 59% respectively. Similar to the Borough, older age cohorts from 60 years and above have seen substantial increase of 121.4%, reflecting an aging population at both County and Borough level.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

Table 3: Population by Age Cohort, Somerset County, 2000 - 2020					
Population and Cohort Type	2000		2020		Percent Change 2000-2020
	Number	Percent	Number	Percent	
Total population	297,490	100%	345,361	100.0%	16.0%
Under 5 years	22,207	7.5%	16,368	4.7%	-26.3%
5 to 9 years	22,783	7.7%	19,615	5.7%	-13.9%
10 to 14 years	20,554	6.9%	23,078	6.7%	12.3%
15 to 19 years	15,415	5.2%	22,877	6.6%	48.4%
20 to 24 years	12,547	4.2%	19,967	5.8%	59.1%
25 to 34 years	42,367	14.2%	39,522	11.4%	-6.7%
35 to 44 years	58,297	19.6%	44,757	13.0%	-23.2%
45 to 54 years	43,861	14.7%	51,035	14.8%	16.4%
55 to 59 years	15,170	5.1%	27,965	8.1%	84.3%
60 to 64 years	10,908	3.7%	24,147	7.0%	121.4%
65 to 74 years	17,770	6.0%	31,985	9.3%	80.0%
75 to 84 years	11,482	3.9%	16,285	4.7%	41.8%
85 years and over	4,129	1.4%	7,760	2.3%	87.9%
Source: US Census Bureau, Decennial Census (Table DP-1)					

The median age of South Bound Brook residents increased by 8.83% from 2000 and 2020, rising from 35.1 to 38.2 years. This trend mirrors broader aging patterns seen across Somerset County and New Jersey. Somerset County experienced the most significant increase, with almost 13% rise from 37.2 to 42 years, making it the highest median age of all three populations.

Table 4: Median Age, 2000 – 2020			
	2000	2020	Percent Change
South Bound Brook	35.1	38.2	8.8%
Somerset County	37.2	42.0	12.9%
New Jersey	36.7	39.9	8.7%
Source: US Census Bureau, Decennial Census (Table DP-1)			

HOUSEHOLDS

A household is defined as one or more individuals, related or not, living together in a single housing unit. According to the 2023 ACS 5-Year estimates, there were approximately 1,829 households in the Borough. Of these, 35.1% were households of 2-persons, the largest percentage, followed by 25.6% with four or more persons, and 21.5% with 1 person.

As illustrated in Table 5, the Borough and the County have a similar makeup of household size, with the largest being a 2-person household at 32.1% followed by 4 or more persons at 25.5% at the County level.

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The Borough's average household size was 2.63 people, close to the County's average of 2.64 and New Jersey's average of 2.61, according to the ACS estimates.

Table 5: Household Characteristics, 2023						
	South Bound Brook		Somerset County		New Jersey	
	Number	Percent	Number	Percent	Number	Percent
Total Households	1,829	100.0%	129,459	100.0%	3,478,355	100.0%
1-person	393	21.5%	30,722	23.7%	918,897	26.4%
2-persons	642	35.1%	41,494	32.1%	1,081,842	31.1%
3-persons	325	17.8%	24,261	18.7%	594,946	17.1%
4 or more persons	469	25.6%	32,982	25.5%	882,670	25.4%
Average Household Size	2.63 people		2.64 people		2.61 people	
Source: US Census Bureau, ACS 5-year Estimates 2023 (Tables S2501& B25010)						

Family households are defined as two or more individuals living together in the same residence, related by blood, marriage, or adoption. Of the total 1,829 households within South Bound Brook, a total of 1,281 (70.4 %) are family households. Similarly, Somerset County has 71% family and 39% non-family households.

Table 6: Household by Type, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Total Households	1,829	100.0%	129,459	100.0%
Average Family Size	3.12 people		3.17 people	
Family Households	1,281	70%	91,920	71.0%
Married Couple Family	787	61.4%	74,454	81.0%
- With own children under 18 years	276	35.1%	32,328	43.4%
- No children under 18 years	511	64.9%	42,126	56.6%
Male householder, no wife present	100	7.8%	4,873	5.3%
- With own children under 18 years	38	38.0%	2,270	46.6%
- No own children under 18 years	62	62.0%	2,603	53.4%
Female householder, no husband present	394	30.8%	12,593	13.7%
- With own children under 18 years	127	32.2%	4,697	37.3%
- No own children under 18 years	267	67.8%	7,896	62.7%
Nonfamily Households	548	30.0%	37,539	29.0%
65 years and over	187	10.2%	13,075	10.1%
Source: US Census Bureau, American Community Survey 5-year Estimates 2019 to 2023 (Table S1101)				

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

Within the Borough, approximately 61.4% of family households consist of married couple householders. Among the remaining family households, 7.8% are headed by a single male householder and 30.8% are headed by a single female householder. The average family size in the Borough is 3.12 persons. In comparison, Somerset County has a slightly higher percentage of married couple households at 81%.

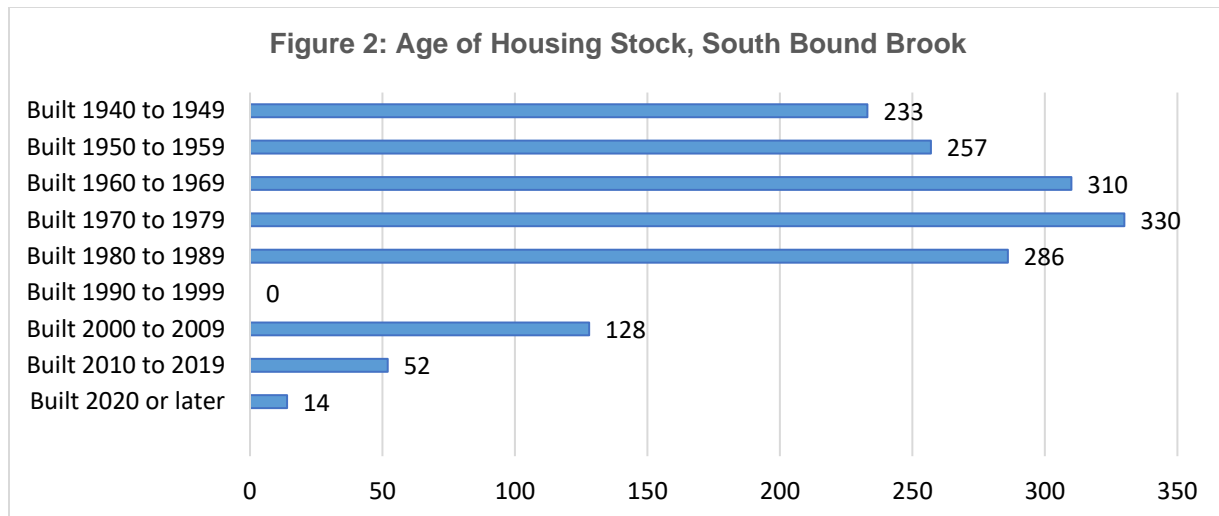
EXISTING HOUSING CONDITIONS

South Bound Brook’s housing stock is predominantly occupied, as indicated in Table 7. Only 2.2% of the housing units are vacant. Of the total of 1,829 occupied housing units, 1,039 (56.8%) are owner-occupied, and 790 (2%) are renter-occupied.

Table 7: Housing Units, 2023, South Bound Brook		
	Number	Percent
Total Housing Units	1,870	100.0%
Occupied Housing Units	1,829	97.8%
Owner Occupied	1,039	56.8%
Renter Occupied	790	43.2%
Vacant Housing Units	41	2.2%
For rent	0	0.0%
Rented, not occupied	41	100.0%
For sale only	0	0.0%
Sold, not occupied	0	0.0%
For seasonal, recreational, or occasional use	0	0.0%
For migrant workers	0	0.0%
Other vacant	0	0.0%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Tables DP04 and B25004)		

As illustrated in Figure 2, building activity in the Borough spiked during the periods of 1960-1969 and 1970-1979. Since 2000, construction appears to have slowed, due to slower housing market post-recession.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan



Source: US Census Bureau, ACS 5-Year Estimates 2023 (Table DP04)

HOUSING TYPE AND SIZE

Borough's housing stock is predominantly comprised of single-family detached homes, making up approximately 61.3% of the total housing units. It is followed by 2-unit duplex housing accounting for almost 13% of the total units. Multi-family housing containing 5 or more units comprise a total of 11.4% of the total units. More than 2/3 of the total housing stock (68.7%) is made up of 2 or 3 bedroom units.

Table 8: Housing Units by Type, 2023, South Bound Brook		
	Number	Percent
Total Housing Units	1,870	100.0%
1-unit detached	1,146	61.3%
1-unit, attached	130	7.0%
2 units	242	12.9%
3 or 4 units	139	7.4%
5 to 9 units	120	6.4%
10 to 19 units	45	2.4%
20 or more units	48	2.6%
Mobile home	0	0.0%
Boat, RV, Van, etc.	0	0.0%
Bedrooms		
No bedroom	96	5.1%
1 bedroom	231	12.4%
2 bedrooms	681	36.4%
3 bedrooms	603	32.2%
4 bedrooms	209	11.2%
5 or more bedrooms	50	2.7%

Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP04)

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HOUSING VALUES AND CONTRACT RENTS

Table 9 provides a detailed breakdown of home values for owner-occupied units within the Borough. According to the ACS 5-Year Estimates, the majority of housing units in South Bound Brook (68.3%) were valued between \$300,000 to \$499,999. However, the highest share of median value of housing units in the County was between \$500,000 to \$999,999 at 42.4%, reflecting a higher median value than the Borough. The median value of an owner-occupied home in South Bound Brook in 2023 was \$345,300, which is lower than the County's median.

Table 9: Value of Owner-Occupied Housing Units, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Total	1,039	100.0%	96,414	100.00%
Less than \$50,000	0	0.0%	1038	1.1%
\$50,000 to \$99,999	5	0.5%	538	0.6%
\$100,000 to \$149,999	11	1.1%	1528	1.6%
\$150,000 to \$199,999	23	2.2%	1778	1.8%
\$200,000 to \$299,999	258	24.8%	8670	9.0%
\$300,000 to \$499,999	710	68.3%	32,002	33.2%
\$500,000 to \$999,999	22	2.1%	40,917	42.4%
\$1,000,000 and greater	10	1.0%	9,943	10.3%
Median Value	\$345,300		\$523,900	
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Table DP04)				

Table 10 below provides a breakdown of gross rent paid within the Borough and the County. Rental prices in South Bound Brook majorly fall between the range of \$1,500 to \$1,999 per month at 41.7%. Even at the County level, the majority share lies between the same range at 34%. According to the 2023 ACS 5-Year Estimates, the median gross rent in the Borough was \$1,822, slightly lower than the County median of \$1,921.

The Borough has about 9% units with gross rent above \$2,500 as opposed to the County share at over 20%. Additionally, approximately 25 units in the Borough did not require cash rent payments, compared to 1,921 such units across the County.

Table 10: Gross Rent Paid, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Total	765	100.0%	31,901	100.0%
Less than \$500	14	1.8%	635	2.0%
\$500 to \$999	22	2.9%	1,475	4.6%
\$1,000 to \$1,499	141	18.4%	4,752	14.9%
\$1,500 to \$1,999	319	41.7%	10,799	33.9%

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Table 10: Gross Rent Paid, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
\$2,000 to \$2,499	199	26.0%	7,672	24.0%
\$2,500 to \$2,999	34	4.4%	3,770	11.8%
\$3,000 or more	36	4.7%	2,798	8.8%
No rent paid	25		1,921	
Median Contract Rent	\$1,822		\$1,921	
Source: US Census Bureau, ACS 5-year Estimates 2019 to 2023 (Table DP04)				

HOUSING CONDITIONS

According to the 2023 ACS estimates, there is no overcrowding in owner-occupied units in South Bound Brook. However, 17.6% of the renter-occupied units have more than 1 occupant per room. The data also reveals that there are no units that lack plumbing or kitchen facilities in the Borough as of 2023. These housing deficiencies are key factors in assessing overall housing conditions across the Borough and determining municipal rehabilitation needs. Table 11 below provides a breakdown of housing deficiency characteristics based on the 5-year ACS data.

Table 11: Housing Deficiency Characteristics, 2023, South Bound Brook		
Housing Units with 1.01 or More Persons Per Room		
	Count	Percent
Owner-Occupied	0	0.0%
Renter-Occupied	139	17.6%
Plumbing Facilities		
Total Occupied Housing Units	1,829	100.0%
Lacking complete plumbing facilities	0	0.0%
Kitchen Equipment		
Total Occupied Housing Units	1,829	100.0%
Lacking complete kitchen facilities	0	0.0%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Tables B25014, S2504)		

HOUSING STOCK

According to the New Jersey Department of Community Affairs (DCA), Borough of South Bound Brook issued building permits for 68 new residential units between January 2013 and December 2023. During this period, the Borough also approved 8 residential demolition permits. Subtracting the demolition permits from the construction permits reveals a net increase of 60 residential units over the same timeframe.

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Notably, the Borough’s 1 and 2 family housing stock saw more growth in 2014 to 2017 compared to no multifamily units developments. Post 2021, there was a shift of permits for multifamily housing. As such, the housing market for the Borough seems steady.

Table 12: Building Permits and Demolition Permits Issued 2013 - 2023						
Year	1&2 Family	Multi Family	Mixed Use	Total New Construction	Total Residential Demolitions	Net Units Added
2013	1	0	0	1	1	0
2014	3	0	0	3	2	1
2015	25	0	0	25	0	25
2016	5	0	0	5	1	4
2017	4	0	0	4	1	3
2018	0	0	0	0	0	0
2019	3	0	0	3	0	3
2020	1	0	0	1	1	0
2021	0	18	0	18	0	18
2022	0	8	0	8	1	7
2023	0	0	0	0	1	-1
Total	42	26	0	68	8	60
Source: NJ DCA, Construction Reporter 2013 to 2023						

EMPLOYMENT DATA

EMPLOYMENT STATUS

ACS estimates provide data on the work activity of residents aged 16 and older. As of 2023, South Bound Brook’s working-age population was 3,791 with approximately 2,894 residents in the labor force. Around 23.7% of the Borough’s working-age residents were not participating in the labor force at the time of the estimates, which is comparable to the County's 30.3% non-participation rate. All of the Borough’s labor force were employed in civilian jobs, with no residents reported as members of the armed forces. The unemployment rate for Borough residents was approximately 7.2%, almost double the County’s rate of 3.3%.

Table 13: Employment Status, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Population 16 years and over	3,791	100.0%	282,215	100.0%
In labor force	2,894	76.3%	196,752	69.7%
Civilian Labor Force	2,894	76.3%	196,608	69.7%
Employed	2,622	69.2%	187,223	66.3%
Unemployed	272	7.2%	9,385	3.3%
Armed Forces	0	0.0%	144	0.1%
Not in Labor Force	897	23.7%	85,463	30.3%

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Table 13: Employment Status, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP03)				

WORKER CLASSIFICATION

As shown in Table 14 below, approximately 86.2% of Borough's workers were employed in private wage and salary positions, while 4.7% were self-employed. Government employees made up 9.1% of the workforce, with no unpaid family workers.

Table 14: Classification of Workers, South Bound Brook, 2023		
	Number	Percent
Total	2,622	100.0%
Private Wage and Salary Worker	2,260	86.2%
Government Worker	238	9.1%
Self-Employed Worker	124	4.7%
Unpaid Family Worker	0	0.0%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP03)		

WORKFORCE BY SECTOR

An analysis of employed individuals over the age of 16 by economic sector reveals while there is a diverse range of industries in which the Borough's working-age population is engaged. Three sectors comprise almost half (48%) of the overall total: manufacturing (15.3%), retail trade (16.4%), and educational and healthcare services (16.3 %).

Table 15: Workforce by Sector, South Bound Brook, 2023		
Industry	Number	Percent
Civilian employed population 16 years and over	2,622	100.0%
Agriculture, forestry, fishing and hunting and mining	0	0.0%
Construction	286	10.9%
Manufacturing	402	15.3%
Wholesale trade	117	4.5%
Retail trade	429	16.4%
Transportation and warehousing, and utilities	206	7.9%
Information	40	1.5%
Finance and insurance, and real estate and rental and leasing	94	3.6%
Professional, scientific, and management, and administration and waste management services	322	12.3%
Educational services, health care and social assistance	427	16.3%

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Table 15: Workforce by Sector, South Bound Brook, 2023		
Industry	Number	Percent
Arts, entertainment, recreation, and accommodation and food services	110	4.2%
Other services, except public administration	134	5.1%
Public administration	55	2.1%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP03)		

OCCUPATIONS BY TYPE

Table 16 presents a breakdown of occupations by type within the Borough's employed civilian labor force. The largest segment is engaged in management, business, science, and arts occupations (34.2 %), followed by sales and office occupations (24.9 %), production and transportation occupations (16.8 %).

Table 16: Occupations by Type, South Bound Brook, 2023		
	Number	Percent
Employed Civilian population 16 years and over	2,622	100.0%
Management, business, science, and arts occupations	896	34.2%
Service occupations	330	12.6%
Sales and office occupations	652	24.9%
Natural resources, construction, and maintenance occupations	304	11.6%
Production, transportation, and material moving occupations	440	16.8%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP03)		

COMMUTING TO WORK

As shown in Table 17 below, the vast majority of residents (74.1 %) commute to work alone by private vehicle, which is similar to the County's rate of 65.6 %. At the Borough level, those who carpool represent 11.2 % of the workforce, followed by those who work from home (9%). At the County level, 20.5% of the workforce works from home followed by 6.3% who carpool. As shown in Table 18, the majority of workers over 16 (58.72%) in South Bound Brook have a commute time under 30 minutes, with an additional 23.93% having a commute time of between 30 and 44 minutes.

Table 17: Means of Commute, South Bound Brook, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Workers 16 years and over	2,520	100.0%	183,010	100.0%
Car, truck, van - Drove Alone	1,868	74.1%	120,143	65.6%
Car, truck, van - Carpooled	282	11.2%	11,597	6.3%

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Table 17: Means of Commute, South Bound Brook, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Public transportation (excluding taxicab)	46	1.8%	6,717	3.7%
Walked	0	0.0%	2,372	1.3%
Other means	98	3.9%	4,726	2.6%
Worked from home	226	9.0%	37,455	20.5%
Source: US Census Bureau, ACS 5-year Estimates 2023 (Table DP03)				

Table 18: Travel Time to Work, 2023				
	South Bound Brook		Somerset County	
	Number	Percent	Number	Percent
Less than 10 minutes	215	9.37%	14,243	9.26%
10 to 19 minutes	673	29.34%	32,594	21.19%
20 to 29 minutes	459	20.01%	29,084	18.91%
30 to 44 minutes	549	23.93%	37,904	24.64%
45 to 59 minutes	223	9.72%	15,594	10.14%
60 to 89 minutes	135	5.88%	14,565	9.47%
90 or more minutes	40	1.74%	9,830	6.39%
Mean travel time to work (minutes)	26.3		31.5	
Source: US Census Bureau, ACS 5-year Estimates 2019-2023 (Table DP03, B08303)				

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan

FAIR SHARE PLAN

Affordable Housing regulations define a “Fair Share Plan” as follows:

"Fair share plan" means the plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to subsection f. of section 3 of P.L., by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

FAIR SHARE OBLIGATION

The Borough’s Fair Share Plan specifically describes the completed and proposed mechanisms to address the Prior Round obligations, present need (Rehabilitation) obligation, and prospective need (Fourth Round) obligation. South Bound Brook’s present and prospective need numbers for the Fourth Round (2025 to 2035) as calculated by the New Jersey Department of Community Affairs (DCA) were agreed to by the Borough per Resolution #2025-002 of the Borough Governing Body. The DCA present need and prospective need agreed to by the Borough are 67 units and 22 units, respectively. An analysis was undertaken to determine if a vacant land adjustment for the Borough’s prospective need obligation was warranted. The analysis indicated that the Borough’s realistic development potential (RDP) is (zero) units, with an unmet need of 22 units. Per the 2024 affordable housing act and regulations, a municipality which “receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall...identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted” in the Housing and Fair Share Plan and must adopt zoning regulations allowing for such. With a Prospective Need of 22 units, the Borough must identify sufficient areas for a total of 6 units.

The following table summarizes the Borough’s cumulative affordable housing obligation. The First and Second Round obligation, and the Third Round obligation are derived from the Econsult Solutions report of March 28, 2018 entitled *Statewide and Municipal Obligations Under Jacobson Opinion*.

Table 19: Borough of South Bound Brook Affordable Housing Obligation Summary, 1987 - 2035	
Obligation Type	
Present Need	
Present Need Obligation	67
First & Second Round	
Prior Round Obligation (1987-1999)	0
Third Round Obligation	

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Table 19: Borough of South Bound Brook Affordable Housing Obligation Summary, 1987 - 2035	
Obligation Type	
Obligation (1999-2025)	41
Prospective Need	
Fourth Round Obligation (2025-2035)	22

Income Levels

South Bound Brook Borough is in COAH's Region 3, which includes Hunterdon, Middlesex, and Somerset Counties. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. Very-low income households are a subset of "low income" households, and are defined as households earning 30% or less of the regional median income.

Table 20: 2024 Income Limits for Region 3								
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household	6-Person Household	7-Person Household	8+-Person Household
Moderate	\$81,872	\$93,568	\$105,264	\$116,960	\$126,317	\$135,674	\$145,030	\$154,387
Low	\$51,170	\$58,480	\$65,790	\$73,100	\$78,948	\$84,796	\$90,644	\$96,492
Very Low	\$30,702	\$35,088	\$39,474	\$43,860	\$47,369	\$50,878	\$54,386	\$57,895
Source: 2024 Income Limits prepared by Affordable Housing Professionals of New Jersey								

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PRESENT NEED (REHABILITATION) OBLIGATION

The Borough has a rehabilitation obligation of 67 units to satisfy the Fourth Round Present Need.

The Borough of South Bound Brook participates in a certain Community Development Block Grant (CDBG) and HOME Investment Partnership Program Somerset County Housing Improvement Program activities with Somerset County. It is also committed to continuing its own municipal rehabilitation program to repair major systems of existing dwellings in the Borough that are owned or occupied by low and moderate income households.

The Borough also reserves the right to claim rehabilitation credits for any existing dwellings that are rehabilitated through the Somerset County program.

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VACANT LAND AND REALISTIC DEVELOPMENT POTENTIAL ANALYSIS

The Fair Housing Act allows for municipalities to adjust their prospective need down to a more realistic number if it can be demonstrated that there is not sufficient vacant and available land to accommodate new growth. This process is referred to as a **Vacant Land Adjustment (VLA)**, and it is used to determine a **Realistic Development Potential (RDP)**, which can be used as the targeted prospective need in lieu of the obligations otherwise required by the Fair Housing Act. .

A VLA was undertaken to determine the RDP for South Bound Brook. The memo summarizing the analysis is found in Appendices. The analysis indicates a lack of vacant land suitable for residential development of sufficient density to provide the required housing. No Durational Adjustment is being claimed.

The Borough's VLA resulted in a combined Prior Round, Third Round and Fourth Round RDP and unmet need as follows:

RDP = 0 units

Unmet Need (Prior and Third Round) = 41 units

Unmet Need (Fourth Round) = 22 units

Since different standards apply to the Fourth Round Unmet Need obligation than to obligations for prior rounds, this plan will discuss those standards based on each round.

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PRIOR ROUND OBLIGATIONS AND MECHANISMS (1987-1999)

The Borough has a cumulative obligation of 0 units in order to satisfy its Prior Round (1987 – 1999) obligations, and therefore no mechanisms need to be identified.

THIRD-ROUND UNMET NEED AND MECHANISMS

The Borough has a total Third Round (1999 – 2025) Obligation of 41 affordable units. During the Third Round period, two deed-restricted family sale units were constructed, for which the Borough is claiming one credit for each.

- 97 Franklin – 1 Credit
The Deed, dated April 2000, for the property indicates the property was sold below fair market value and includes restrictions that the property will not be sold to purchaser who is not determined to be a low- or moderate-income-eligibility household. There is no term period for the restriction noted in the legal instrument. Property record indicates the dwelling was built in 2000.
- 99 Franklin – 1 Credit
The Deed, dated February 2010, for the property indicates the property was sold below fair market value and includes restrictions that the property will not be sold to purchaser who is not determined to be a low-income-eligibility household. The restrictions are in place for a period of 30 years. Property record indicates the dwelling was built in 2000.

Based on the Vacant Land Adjustment Analysis for the Borough, and subtracting the credits noted above, it is determined that South Bound Brook has a Third Round unmet need of 39 units. Per N.J.A.C 5:97-1.4, unmet need is defined as the difference between the prior round affordable housing obligation and the RDP as determined pursuant to N.J.A.C. 5:97-5.2. Further, N.J.A.C. 5:97-5.3 (b) provides methods for the Borough to address the unmet need. The Borough of South Bound Brook will utilize the following methods.

Affordable Housing Overlay

The Borough proposes to adopt an affordable housing overlay district along Main Street (County Road 527) which will extend between Washington Street and just north of Johnson Street. The overlay district is intended to provide opportunities and requirements for additional affordable housing.

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FOURTH ROUND PROSPECTIVE NEED OBLIGATIONS

The Borough has a Fourth Round (2025 – 2035) Prospective Need Obligation of 22 affordable units. However, the Borough is seeking a vacant land adjustment and calculated the RDP equal to 0 units. However, based on the current law, the Borough must identify properties likely to redevelop during the Fourth Round that will provide sufficient residential units to provide 25% of the Prospective Need obligation. For South Bound Brook, this 25% is equal to 6 units. The Borough must also adopt suitable zoning regulations to allow for the development.

FOURTH ROUND COMPLIANCE MECHANISMS

The Borough has identified the following property that through appropriate development will provide 25% of its prospective need obligation as required under current law. The location of both these mechanisms is identified in a map on the following pages.

Block 57.02, Lot 1.03 Development

- 8 Units
Status – Proposed
The Borough has negotiated with a developer to provide eight (8) affordable rental units in a 12-unit multi-family development at the property, which is currently owned by the Borough. All 8 units will be family rentals and will comply with UHAC requirements, including provision for low-income and very low-income units, and number of bedrooms. The site is owned by the Borough. Adequate regulations will be adopted for the development of the site for affordable housing, either by Ordinance or by Redevelopment Plan. The suitability of the site is discussed below.

The following method will provide means by which additional affordable units can be built during the Fourth Round with the goal of reducing the Borough’s unmet need.

Affordable Housing Overlay

The Borough proposes to adopt an affordable housing overlay district along Main Street (County Road 527) which will extend between Washington Street and just north of Johnson Street. The overlay district is intended to provide opportunities and requirements for additional affordable housing.

CONSIDERATION OF LANDS SUITABLE FOR AFFORDABLE HOUSING

The Fair Share Plan must demonstrate site suitability for proposed new units that are not yet fully approved, as required by N.J.A.C. 5:93 -5.3. A site is considered to be suitable for development with affordable housing if it is available, developable, suitable, and approvable.

An “*available site*” is a site with clear title, and that is free of encumbrances which preclude development for low- and moderate-income housing.

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- Although no title search has been performed for the property (Block 57.02 Lot 1.03) proposed as the affordable housing site, maps indicating the likely areas of wetlands or flood hazard area on all of these properties indicate minimal environmental encumbrances. The sites is “available” as there is sufficient land (0.368 acres) for development.

A “**developable site**” is a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable area-wide water quality management plan and wastewater management plan.

- The affordable housing site in the compliance plan are “developable”. The property is within a designated sewer service area, and has access to all necessary infrastructure.

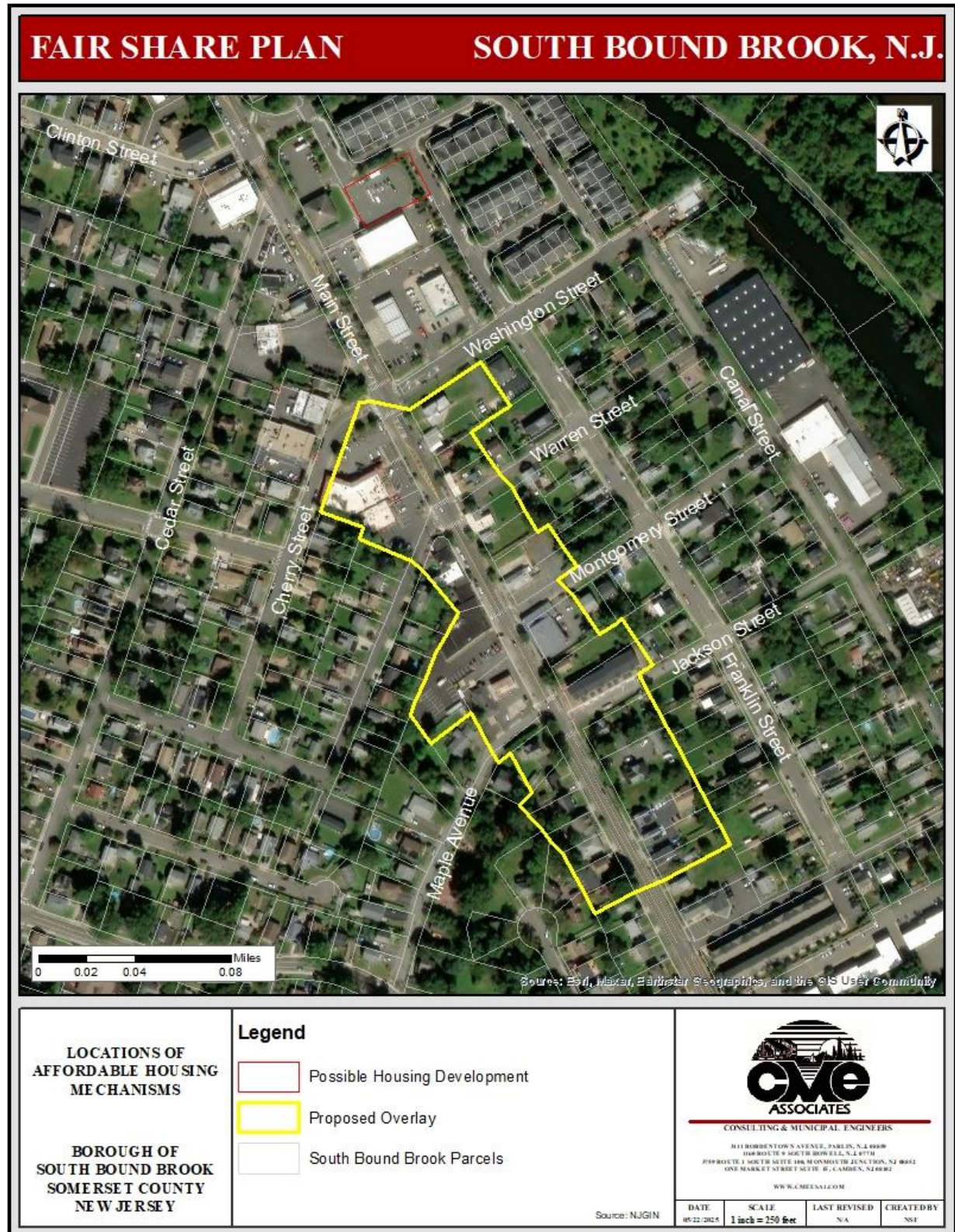
A “**suitable site**” is a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4 (not in wetlands, flood hazard areas, steep slopes).

- The affordable housing site in the compliance plan is “suitable”. The property proposed for the affordable housing set-aside is next to an existing multi-family residential development and will have access to County Road 527. The site is located in Planning Area 1 of the State Plan. This is an area where development and redevelopment are encouraged, and where lands are generally free of environmental encumbrances. The surrounding lands of the overlay zones primarily consist of high density residential development, and some mixed commercial uses along the County Road frontage, and would not be incompatible with multi-family residential development.

An “**approvable site**” is a site that may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low- and moderate-income housing.

- As a part of this plan, the Borough will adopt new zoning ordinances to ensure that the proposed affordable housing development on the site identified in this plan will be approvable as permitted principal uses, and at appropriate housing densities in its zoning district.

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HOUSING ADMINISTRATION**AFFORDABLE HOUSING ORDINANCE**

The Borough's Municipal Code at Chapter 26 was adopted in 2004. The Borough will update the Chapter to be compliant with all current Fair Housing Act and Uniform Housing Affordability Controls (UHAC) requirements, if updates are needed.

- All new housing units will have a minimum of 50% of the units be available to low income households, with at least 13% of units being available to very-low-income households. No more than 50% of housing units shall be made available to moderate income households.
- All new construction shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b.
- All affordable units shall fully comply with UHAC.
- In inclusionary developments, the affordable units shall be integrated with the market rate units.
- Construction of affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
- All affordable units shall be affirmatively marketed in accordance with UHAC and applicable laws.

The Borough's code will be amended to require that all affordable units shall be subject to affordability controls of at least 40 years from the initial date of occupancy for new construction.

DEVELOPMENT FEE ORDINANCE

The Borough will adopt a development fee ordinance that requires that all new residential construction make a contribution equal to 1.5% of the equalized assessed value of the construction, and all new non-residential construction provide a contribution of 2.5% of the equalized assessed value of the construction, to the Borough's dedicated Affordable Housing Trust Fund.

AFFORDABLE HOUSING TRUST FUND

The Borough has an interest-bearing affordable housing trust fund in place, and consistent with the development fee ordinance discussed above, will impose development fees on all applicable residential and non-residential development, and said fees shall be deposited into the affordable housing trust fund.

The Borough will adopt by resolution a Spending Plan for the affordable housing trust fund. The Spending Plan will provide an outline of how the Borough intends to utilize these funds to further the goals and mechanisms established in this Plan, and in accordance with prior COAH regulations found at N.J.A.C. 5:97 et seq, and with the Fair Housing Act. This will include a summary of revenues and expenditures to date from the affordable housing trust fund, identify mechanisms to

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collect revenues, project anticipated future revenues and interest, as well as outline all proposed spending from the trust fund. Funds will be spent on appropriate housing activity, affordability assistance, and administrative expenses consistent with applicable prior COAH regulations.

In the event that funding sources identified in the Spending Plan prove to be inadequate to complete the affordable housing programs outlined in this Housing Plan, the Borough shall provide sufficient funding to address any such shortfalls.

AFFORDABILITY ASSISTANCE PROGRAM

The Borough will address the minimum affordability assistance requirements of the Affordable Housing Trust Fund spending in accordance with an Affordability Assistance Program that it will implement, consistent with the Settlement Agreement and the Spending Plan outlined above.

MUNICIPAL HOUSING LIAISON

The Borough has appointed, per Resolution 2025-013, a municipal staff member as the designated Municipal Affordable Housing Liaison, who will be responsible for overseeing all affordable housing regulations and corresponding with administrative agent(s), the public, and all other related affordable housing professionals.

AFFORDABLE HOUSING ADMINISTRATIVE AGENT

The Borough will ensure that all future projects are administered by a qualified affordable housing professional and will appoint an Administrative Agent to administer all projects that do not have their own administrative agent.

Pursuant to N.J.A.C. 5:80-26.15(f), the Borough will adopt an updated Affirmative Marketing Plan to ensure that all available affordable units are marketed to the appropriate populations.

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APPENDICES

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 1 – RESOLUTION 2025-002

Resolution 2025-002

**BOROUGH OF SOUTH BOUND BROOK
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**RESOLUTION OF MAYOR AND COUNCIL ACCEPTING ITS FOURTH ROUND
FAIR SHARE AFFORDABLE HOUSING OBLIGATION AND OTHER ACTIONS**

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2 (A-4/S-50), setting forth the manner in which municipal affordable housing obligations for the “4th Round” – the period of 2025-2035 – were to be calculated and the process for municipalities to address the aforesaid affordable housing obligations (hereinafter, the “Amended FHA” or the “Act”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (the “DCA”), to produce non-binding estimates of need for municipalities, on or before October 20, 2024; and

WHEREAS, on October 18, 2024, the DCA issued a report wherein it recorded its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA (the “DCA Report”); and

WHEREAS, the DCA Report calculated the Borough of South Bound Brook as having a present need or rehabilitation share of 67 units and a prospective need or new construction obligation of 22 units for the Fourth Round (2025-2035); and

WHEREAS, pursuant to the Act, every municipality in the State of New Jersey has an obligation to adopt a binding resolution establishing its fair share affordable housing obligation for the Fourth Round by January 31, 2025; and

WHEREAS, the Borough’s affordable housing professionals have independently reviewed the present need and prospective share published in the DCA Report and have

recommended that the Borough adopt these amounts as its Fourth Round Fair Share obligation; and

WHEREAS, Section 3 of the Act provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Act; and

WHEREAS, the Mayor and Council have reviewed this matter and agree to accept the recommendations of the Borough’s affordable housing professionals and take other necessary actions in connection with the Amended FHA; and

WHEREAS, the Borough specifically reserves the right to adjust those numbers based on one or any of the foregoing adjustments: (1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; (2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); or (4) any other applicable adjustment permitted by law; and

WHEREAS, in addition to the foregoing, the Borough specifically reserves all rights to revoke this resolution and commitment in the event of a successful challenge to the Act in the context of the Montvale case (MER-L-1778-24), any other such action challenging the Act, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Act.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Borough Council of the Borough of South Bound Brook, as follows:

1. The aforesaid recitals are incorporated herein as if set forth in their entirety.

2. The Borough hereby establishes its Fourth Round Affordable Housing Fair Share obligation as a present need of 67 units and a prospective need of 22 units, subject to all reservations of rights, which specifically include:
 - a. The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, other applicable adjustment permitted by law, or any combination thereof;
 - b. All rights to revoke this Resolution in the event of a successful legal challenge, or legislative change, to the Act;
 - c. All rights to take any contrary position in the event of a third-party challenge to the obligations.
3. The Borough's affordable housing attorney is hereby authorized and directed to file an action in the form of a declaratory judgment complaint and civil case information statement within 48 hours after the adoption of this resolution.
4. The Borough's affordable housing professionals shall submit the Borough of South Bound Brook into the DCA affordable housing dispute program and take any other action necessary to comply with the Amended FHA and implement its Fourth Round Affordable Housing Fair Share obligation, including but not limited to defending any challenges to the Borough's actions herein.
5. The Borough also authorizes and directs its affordable housing professionals to prepare the appropriate Housing Element and Fair Share Plan as a component of the Borough's Master Plan so that is filed with DCA on or before June 30, 2025.
6. This Resolution shall take effect immediately, according to law.
7. A certified copy of this Resolution shall be submitted to the DCA upon its adoption.

Certification

I, Christina Fischer, Registered Municipal Clerk, of the Borough of South Bound Brook, in the County of Somerset, do hereby certify that the foregoing Resolution was presented and duly adopted by the Borough Council at a meeting of the Borough of South Bound Brook held on January 14, 2025.



Christina Fischer, RMC

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 2 – VACANT LAND ANALYSIS



Consulting & Municipal
ENGINEERS

Memorandum

Via Email

DATE: May 16, 2025

TO: Chris Shoffner, Mayor of South Bound Brook
Christine Fischer, South Bound Brook Borough Administrator

FROM: Malvika Apte, PP, AICP
Nathan Foote, PP, AICP

RE: South Bound Brook Borough Present Need Obligation Vacant Land Adjustment

FILE NO.: SB00062.P25 / Task No. 92001

Pursuant to the Fair Housing Act as amended in March of 2024 by P.L. 2024 c.2, each municipality in the state is required to determine its fair share of the regional need for low and moderate income housing, and adopt specific numbers for present need (rehabilitation) and prospective need (new construction), through a binding resolution. The Borough accepted, by resolution, the prospective need of 22 units calculated by the New Jersey Department of Community Affairs (DCA). Our office has been contracted to analyze South Bound Brook Borough's 2025-2035 ("4th Round") Prospective Need obligation to determine if a vacant land adjustment is warranted.

To begin the vacant land adjustment analysis we first identified the properties in South Bound Brook that were classified in the State MOD IV database as vacant. We also analyzed properties that were not assigned a classification to ensure that all possibly developable vacant parcels were accounted for. Parcels designated as public property ("15C") were also reviewed. The map appended to this Memorandum illustrates the properties in the Borough classified in the MOD IV as vacant or that were not classified. A total of 60 properties were identified for further review: 27 were classified as vacant in MOD IV, eight were not classified, and 25 were public property. The table appended to this Memorandum summarizes the results of our analysis.

Using ArcMap and other aerial imagery, the identified parcels were reviewed to determine if they were already developed and to determine their surrounding context. Based on this review, 20 of the 35 parcels were already developed or were part of existing development on a neighboring property. All 25 of the public property were already developed, too small for development, or were otherwise encumbered. A total of five parcels listed as vacant or not classified were part of the Delaware and Raritan Canal, which is not available for development. This left ten vacant parcels that we analyzed to see if their areas made them viable for multi-family development.

CONSULTING AND MUNICIPAL ENGINEERS LLC

NJ CERTIFICATE OF AUTHORIZATION NO. 24GA28359000

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Consulting & Municipal
ENGINEERS

Borough of South Bound Brook
Re: Vacant Land Adjustment Analysis

May 16, 2025
Our File No. SB00062.P25
Page 2

Per State affordable housing regulations, 0.83 acres is the minimum lot size necessary to achieve one affordable dwelling unit with a density of 6 dwelling units per acre and affordable set aside of 20% (in other words, five dwelling units, one of which will be an affordable unit). However, the Zoning Ordinance of the Borough South Bound Brook includes the R-4 Garden Apartment Residence

District, which permits a maximum of 14 dwelling units per acre. Therefore, in order to achieve the required one affordable unit set aside from a total of five units, the most dense zone in the Borough requires a minimum lot size of 0.357 acres (15,557.14 square feet). For the purposes of this review, we used a minimum lot size of 0.357 acres to identify viable vacant parcels.

Of the nine parcels identified as vacant and possibly developable, none met the required minimum lot size of 0.357 acres. We note that as part of our review, any adjacent vacant properties were considered as a whole, not as individual parcels. As such, the realistic development potential (RDP) is zero units.

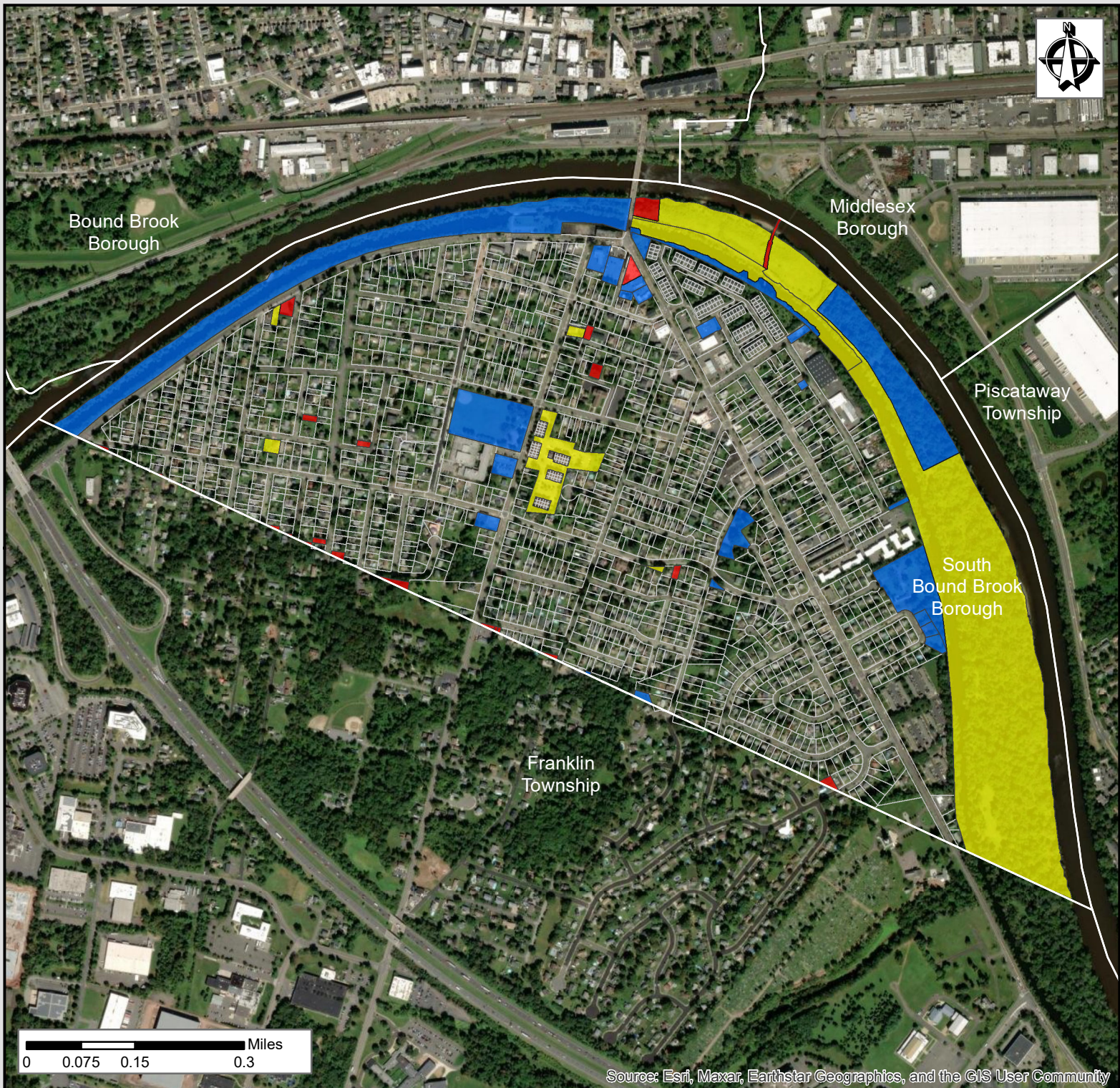
Per the Fair Housing Act as amended in March of 2024 by P.L. 2024 c.2, a municipality which receives an adjustment of its Prospective Need based on lack of vacant land shall demonstrate how it will provide at least 25% of its Prospective Need obligation. In the case of South Bound Brook, this amounts to 22 units x 25% = 5.5, which rounds up to 6 units.

Therefore, based on this vacant land adjustment analysis, the Borough of South Bound Brook's realistic development potential (RDP) is 0 units, with an unmet need of 22 units. The Borough must demonstrate how at least 6 units will be provided through properties reasonably expected to be redeveloped. The next steps for the Borough will be to determine:

1. Mechanisms to address the provision of 6 units; and
2. Zoning mechanisms to address the additional unmet need of 16 units.

CME Associates will continue working with the Borough to identify the above-noted mechanisms.

VACANT LAND ANALYSIS SOUTH BOUND BROOK, N.J.



**REVIEWED PARCELS
FOR VLA
(DRAFT)**

**BOROUGH OF
SOUTH BOUND BROOK
SOMERSET COUNTY
NEW JERSEY**

Legend

- Vacant Parcels
- Parcels Not Classified
- Public_Property
- South Bound Brook Parcels

Source: NJGIN



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
1460 ROUTE 3 SOUTH HOWELL, N.J. 07731
3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

DATE	SCALE	LAST REVISED	CREATED BY
02/21/2025	1 inch = 1,000 feet	05/15/2025	NSF

Block	Lot	Include for Vacant Land (Y/N)	Reason Not Included	Property Class.	Area (Acres)
1	3N		Park, owned by State (D&R Canal)	1 (Vacant)	0.633886
1	7N		Park, owned by State (D&R Canal)	1 (Vacant)	0.221068
3	6N		Too small, part of dwelling development on Lot 3	1 (Vacant)	0.001662
3	7N		Too small, needed for ROW access for dwelling on lot to south	1 (Vacant)	0.051947
4	6N		Even with assemblage with neighboring lots in Franklin Twp, too small	1 (Vacant)	0.017541
6	9N		Part of existing residential property	1 (Vacant)	0.016282
6	10N		Part of existing residential property	1 (Vacant)	0.010816
7	12N		Too small, owned by residential dwelling owner to the south, part of existing residential property	1 (Vacant)	0.000293
8	10N		Too small	1 (Vacant)	0.001006
9	11N		Too small, associated with existing residential development	1 (Vacant)	0.020033
9	13N		Too small, associated with existing residential development	1 (Vacant)	0.046111
10	11N		Too small	1 (Vacant)	0.087877
10	14N		Too small, no frontage	1 (Vacant)	0.028521
11	16N		Too small, surrounded by dwellings (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.110177
16	1N		Too small, surrounded by developments (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.25757
20	15N		To be developed with SF dwellings	1 (Vacant)	0.205487
23	12N		Too small, even when assembled with other Lot 23 parcels	1 (Vacant)	0.056494
23	13N		Too small, even when assembled with other Lot 23 parcels	1 (Vacant)	0.02116
23	14N		Too small, even when assembled with other Lot 23 parcels	1 (Vacant)	0.023945
23	32N		Too small, surrounded by developments (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.072231
26	15N		Too small, surrounded by developments (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.101409
27	13N		Too small, surrounded by developments (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.097935
41	5.03N		Too small, associated with existing residential development, even if not, surrounded by existing dwellings (no opportunity for vacant land assemblage)	1 (Vacant)	0.114805
49	10N		Too small, surrounded by developments (no opportunity for vacant parcel assemblage)	1 (Vacant)	0.187266
53	1N		Parking lot, circulation for mutually use	1 (Vacant)	0.129403
56	1.01N		Developed with mixed use	1 (Vacant)	0.318956
72	24N		Too small, associated with residential dwelling property, even if not it is surrounded by existing dwellings (no opportunity for vacant land assemblage)	1 (Vacant)	0.160722
1	4N		Park, owned by State (D&R Canal)	Not Classified	4.154
1	5.01N		Park, owned by State (D&R Canal)	Not Classified	4.83813
1	5.02N		Park, owned by State (D&R Canal)	Not Classified	51.013
14	9N		Developed with maintained residential property	Not Classified	0.268901
16	20N		Developed with restaurant/commercial building	Not Classified	0.162897
36	15N		Developed as part of multifamily development	Not Classified	3.39456
36	22N		Required for access to ROW by residential dwellings on Lots 18 and 19	Not Classified	0.07454
53	27N		Developed with residential dwelling	Not Classified	0.207011
1	1N		State-owned park/canal	Public Property (15C)	17.2113
1	6N		Pedestrian path for canal, narrow, odd shape	Public Property (15C)	1.39438
1	8N		State-owned park/canal	Public Property (15C)	7.73453
10	13N		Too small	Public Property (15C)	0.008131
20	6N		Already developed	Public Property (15C)	0.405527
33	4N		Developed with paved parking for school	Public Property (15C)	0.550533
34	1N		Park	Public Property (15C)	4.35587
38	37N		Too small, no frontage, surrounded by development	Public Property (15C)	0.023657
39	11N		Too small, no frontage, surrounded by development	Public Property (15C)	0.174419
55	1N		Developed	Public Property (15C)	0.565341
55	3N		Developed	Public Property (15C)	0.530988
56	3N		Developed	Public Property (15C)	0.284404
56	4N		Too small	Public Property (15C)	0.273706
56	8N		Too small, developed	Public Property (15C)	0.131582
57.01	1N		Pedestrian path	Public Property (15C)	0.336033
57.02	1.03N		Developed with parking and circulation	Public Property (15C)	0.367831
61	4N		Playground/park	Public Property (15C)	0.083622
62	1.03N		Developed with borough garage	Public Property (15C)	0.235123
62	6N		Isolated, too small	Public Property (15C)	0.12417
67	25N		Park	Public Property (15C)	1.05388
68	12N		Isolated, too small	Public Property (15C)	0.091904
75	8N		Developed with historic building/grounds	Public Property (15C)	3.87889
75	21N		Listed as conservation land	Public Property (15C)	0.218829
75	23N		Listed as conservation land	Public Property (15C)	0.208363
75	24N		Listed as conservation land	Public Property (15C)	0.306564

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 3 – AFFORDABLE HOUSING ORDINANCE DRAFT

**BOROUGH OF SOUTH BOUND BROOK
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

ORDINANCE 2025-XX

**AN ORDINANCE OF THE BOROUGH OF SOUTH BOUND BROOK TO ENACT THE
BOROUGH'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATIONS IN
ACCORDANCE WITH P.L. 2024, c. 2, NJ Rev Stat § 52:27D-311**

Chapter 26 of the Municipal Code of South Bound Brook is deleted in its entirety and replaced with the following.

Section 1. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Borough of South Bound Brook Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes the ways South Bound Brook Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element.
- (c) This Ordinance implements the Borough's Fair Share Plan.
- (d) The Borough of South Bound Brook shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at Borough Hall located on 2 Main Street, Suite 101, South Bound Brook, NJ 08880.

Section 2. Definitions

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

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

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

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of 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.

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

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

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

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

“Developer” means 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.

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

“Inclusionary development” means a development containing both affordable units and market rate units. Inclusionary developments must have a twenty percent set aside of affordable units if the development has five or more units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

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

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

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

“Median income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

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

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

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one

applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by the Department.

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

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

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

Section 3. Affordable Housing Programs

The Borough of South Bound Brook will use the following mechanisms to satisfy its affordable housing obligations:

(a) A Rehabilitation program.

1. The Borough will continue to participate in the Somerset County CDBG and HOME Investment Partnership Programs, one aspect of which is to update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. Additionally, the Borough will implement its own rehabilitation program for rental units through a hired Administrative Agent.
2. All rehabilitated rentals units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). Owner-occupied units shall remain affordable to low- and moderate-income households for a period of six (6) years. For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.

3. The Borough of South Bound Brook shall dedicate a minimum of \$4,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
 4. The Borough of South Bound Brook shall designate, subject to the approval of the Court, one Administrative Agent to administer the rehabilitation program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The Administrative Agent shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office of the Administrative Agent.
 5. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.
- (b) **Percentage of Mandatory Set Asides for All Future Residential Developments.**
- All multi-family development on in the Borough's Multi-Family Inclusionary Zone (MFIZ-I), whether for-sale or rental, shall have a mandatory 20% set aside for for-sale units and 15% set-aside for rental units for the purposes of providing affordable housing to low and moderate income households. The provisions here within shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings.
- (c) **Phasing.** Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment agreement:

Minimum Percentage of Low- and Moderate-Income Units Completed	Maximum Percentage of Market-Rate Units Completed
0	25
10	25 + 1 Unit

75
100

75
90

- (d) Fractional Units. If 20 percent of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.

- (e) Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (f) Payments-in-lieu and off-site construction. The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:93-8 and the Borough's Affordable Housing Development Fee ordinance.
- (g) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 4. New Construction

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- 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. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low income unit.
 3. Thirteen percent (13%) of all units shall be designated as very-low income households at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of a very low income unit shall be deposited into the Borough's Affordable Housing Trust Fund based on the difference in cost between providing a very low income unit and the region's affordability average. Inclusionary developments of 10 or more total units shall be required to provide a minimum of one very low income unit. Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.

4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
1. 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. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

b. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - vi. 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 of South Bound Brook has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - a. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will

reside in the dwelling unit, an accessible entrance shall be installed.

- b. To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
- c. The funds deposited under paragraph B. above shall be used by the Borough of South Bound Brook for the sole purpose of making the adaptable entrance of any 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.
- d. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
- e. 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 where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
- f. 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 regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - a. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.

4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
 - f. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 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 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied 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 percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

Section 5. Affirmative Marketing Requirements

- (a) The Borough of South Bound Brook shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the DCA, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 44 and covers the period of deed restriction.
- (c) The Administrative Agent designated by the Borough of South Bound Brook shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (d) 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.

- (e) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (f) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

Section 6. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 7. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Borough of South Bound Brook elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (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.
- (d) At the time of the first sale of the unit, the 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 requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit

meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 8. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 9. 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 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) 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 33 percent of the household's certified monthly income.

Section 10. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

Section 11. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Borough of South Bound Brook elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 40 years.
- (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 Ocean. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

Section 12. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 13. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 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 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 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 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (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 35 percent (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 proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 14. Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Borough of South Bound Brook is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of South Bound Brook.
 2. The person appointed as the MHL must be reported to the DCA and thereafter posted on the Borough's website.
 3. The MHL must meet all the requirements for qualifications, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of South Bound Brook, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.

- iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).
- (b) The Borough of South Bound Brook shall designate by resolution of the Borough Council, subject to the approval of the DCA, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:91, N.J.A.C. 5:93 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
- 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).;
 - 2. Affirmative Marketing;
 - 2. Household Certification;
 - 3. Affordability Controls;
 - 4. Records retention;
 - 5. Resale and re-rental;
 - 6. Processing requests from unit owners; and
 - 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 - 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 15. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief

to prevent further violation of the regulations, entry on the premises, and specific performance.

- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found 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:
 - i. A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of South Bound Brook Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 - 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.
- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and

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

- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (h) 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.

Section 16. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Somerset County.

Section 17. Repealer

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

Section 18. Inconsistent Ordinances

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

Section 19. Severability

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 20. Effective Date

This Ordinance shall take effect upon its passage and publication according to law.

Clerk

This is to certify that the foregoing Ordinance was adopted by the Borough Council at a regular meeting of the Borough of South Bound Brook held on _____, 2025.

Clerk

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 4 – DEVELOPMENT FEE ORDINANCE DRAFT

**BOROUGH OF SOUTH BOUND BROOK
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

ORDINANCE 2025-XX

**ORDINANCE OF THE BOROUGH OF SOUTH BOUND BROOK, COUNTY OF
SOMERSET, AND STATE OF NEW JERSEY, CREATING CHAPTER 26 ARTICLE III
OF THE CODE OF THE BOROUGH OF SOUTH BOUND BROOK ENTITLED
AFFORDABLE HOUSING DEVELOPMENT FEES**

WHEREAS, the Planning Board, and the Mayor and Borough Council of the Borough of South Bound Brook, County of Somerset, and State of New Jersey have adopted a Housing Element and Fair Share Plan; and

WHEREAS, the Housing Element and Fair Share Plan include the continued funding of the Borough's Affordable Housing Trust Fund as a mechanism to assist in meeting its Present Need (Rehabilitation) obligation; and

WHEREAS, municipalities are permitted by State law to collect development fees for residential and non-residential construction; and

WHEREAS, the Mayor and Borough Council of the Borough of South Bound Brook, County of Somerset, and State of New Jersey seek to adopt a "Development Fee" ordinance; and

WHEREAS, The Borough Council has deemed it in the best interest of the public health, safety, and welfare to develop Chapter 26 Article III of the Code of the Borough of South Bound Brook entitled "Affordable Housing Development Fees".

NOW THEREFORE, be it Ordained by the Borough Council of the Borough of South Bound Brook, County of Somerset, and the State of New Jersey, that Chapter 26 Article III shall be added as follows:

1. Purpose

- a. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:274- 301 et seq., and the State Constitution, subject to the Council on Affordable Housing' s (COAH' s) adoption of rules.
- b. Pursuant to P. L.2008, c.46 section 8 (C. 52:27D- 329.2) and the Statewide Non –Residential Development Fee Act (C. 40: 55D- 8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are

under the jurisdiction of a court of competent jurisdiction and have a Court approved spending plan may retain fees collected from non-residential development.

- c. Pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 et seq.), the Governor abolished COAH and transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs, effective August 29, 2011. Any and all references to COAH shall mean the Department of Community Affairs (the Department).
- d. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to N.J.A.C. 5:93-8 and in accordance P. L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate -income housing. This ordinance shall be interpreted within the framework of DCA's rules on development fees, codified at N.J.A.C. 5:93-8.

2. Basic Requirements

- a. This ordinance shall not be effective until approved by the Department pursuant to N.J.A.C. 5:96-5.1.
- b. The Borough of South Bound Brook shall not spend development fees until the Department has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a. The following terms, as used in this ordinance, shall have the following meanings:
 - i. **"Affordable housing development"** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii. **"COAH" or the "Council"** means the New Jersey Council on Affordable Housing established under the Fair Housing Act which previously had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State. Pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 et seq.), the Governor abolished the Council and transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs, effective August 29, 2011. As such, any and all references to COAH shall mean the Department.
 - iii. **"Development fee"** means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

- iv. **"Developer"** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. **"Equalized assessed value"** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. **"Green building strategies"** means 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.

4. Residential Development Fees

- a. Imposed fees
 - i. Within all residential zoning districts, developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted and that the proposed density complies with applicable standards of the South Bound Brook Land Development Regulations ordinances.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit in excess of applicable ordinance standards that may be realized. However, if the zoning on a site has changed during the two-year period immediately preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b. Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Any development within an Area in Need of Redevelopment or Rehabilitation, where a redevelopment agreement that includes specific requirements related to the provision of affordable housing has been executed by the Borough and the designated redeveloper, shall be exempt from development fees.
 - iii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - iv. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
 - v. Developers of one and two family homes shall be exempt from paying a development fee under the following circumstances: residential structures demolished and replaced as a result of a natural disaster, including fire, or property converted from commercial to residential use to create additional affordable housing.

5. Non-Residential Development Fees

- a. Imposed fees
 - i. Within all zoning districts, non-residential 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 non-residential construction on an unimproved lot or lots.
 - ii. Non-residential 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 non-residential purposes.

- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. 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 non-residential development fee shall be zero.
 - iv. If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70(d)(4) then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of two and one half percent (2.5%) of the appraised value utilized on the document for construction financing. However, if the zoning on a site is changed during the two-year period preceding the filing of such variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.
 - v. When a use variance is granted pursuant to N.J.S.A. 40:55D-70(d)(1), (d)(2), or (d)(3), developers shall be required to pay a bonus development fee of two and one half percent (2.5%) of the appraised value utilized on the document for construction financing.
- b. Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 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.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

6. Collection procedures

- a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential 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 non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

- f. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the Borough of South Bound Brook fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i. Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by The Borough of South Bound Brook. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of South Bound Brook or by the State, as the case may be. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Municipal Clerk/Municipal Housing Liaison for the purpose of depositing development fees collected from residential and non-residential 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 percent (10%) of the adaptable entrances in a townhouse or other multistory attached development handicapped 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.
- c. Within seven days from the opening of the trust fund account, The Borough of South Bound Brook shall provide the Department with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Department to permit the Department to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Department.

8. Use of funds

- a. The expenditure of all funds shall conform to a spending plan approved by a court of competent jurisdiction. Funds deposited in the housing trust fund may be used for any activity approved by the court to address the Borough of South Bound Brook'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, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b. Funds shall not be expended to reimburse the Borough of South Bound Brook for past housing activities.
- c. At least 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 30 percent or less of median income by region.

- i. 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.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Borough of South Bound Brook 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.A.C. 5:96-1.
- e. No more than 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 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 reporting and monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to applicable affordable housing regulations or requirements are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a. The Borough of South Bound Brook shall complete and return to the Department all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential 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 Plumsted's housing program, as well as to the expenditure of revenues and implementation of the plan approved by a court of competent jurisdiction. All monitoring reports shall be completed on forms designed by the Department.

10. Ongoing collection of fees

- a. The ability for the Borough of South Bound Brook to impose, collect and expend development fees shall expire with its substantive certification/judgement of compliance and repose unless the Borough has filed an adopted Housing Element and Fair Share Plan with the Department, has petitioned for substantive certification or a judgment of compliance and repose, and has received approval of its development fee ordinance from that entity. If the Borough of South Bound Brook fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, 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 (C.52:27D-320). 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 substantive certification or judgment of compliance, nor shall the Borough retroactively impose a development fee on such a development. The Borough of South Bound Brook shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

This Ordinance shall take effect immediately upon final passage and publication in accordance with law after approval by the Department or a court of competent jurisdiction.

INTRODUCED:

ADOPTED:

Borough Clerk

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 5 – MUNICIPAL HOUSING LIAISON RESOLUTION

RESOLUTION 2025-013

RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON

WHEREAS, pursuant to P.L. 2024. c.2. the Borough of South Bound Brook is required to appoint a Municipal Housing Liaison for the oversight of administration of South Bound Brook's affordable housing program to enforce the requirements of the law and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the Borough of South Bound Brook has amended their ordinances to provide for the appointment of a Municipal Housing Liaison to administer South Bound Brook's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of South Bound Brook, County of Somerset, and the State of New Jersey that Christina Fischer is hereby appointed by the Governing Body of South Bound Brook as the Municipal Housing Liaison for the administration of the affordable housing program.

I, Christina Fischer, Borough Clerk, hereby certify that the above resolution is a true and correct copy of a resolution adopted by the Borough Council of the Borough of South Bound Brook at a regular and duly convened meeting held on February 11, 2025.

In witness thereof, I have set my hand and affixed the seal of the Borough of South Bound Brook this 11th day of February 2025.



Christina Fischer, Borough Clerk

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 6 – AFFORDABLE HOUSING OVERLAY ORDINANCE DRAFT

**BOROUGH OF SOUTH BOUND BROOK
ORDINANCE NO. 2025-XXX**

**AN ORDINANCE AMENDING CHAPTER 34 (ZONING) OF THE CODE OF THE
BOROUGH OF SOUTH BOUND BROOK, COUNTY OF SOMERSET, AND STATE OF
NEW JERSEY TO ESTABLISH AN INCLUSIONARY ZONE DISTRICT OVERLAY,
ENTITLED MFIZ-I, PROVIDING AFFORDABLE HOUSING UNITS TO BE
DEVELOPED SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS**

WHEREAS, the Borough of South Bound Brook will satisfy its unmet affordable housing obligation in accordance with Mount Laurel IV regulations and the most recently adopted Housing Plan Element & Fair Share Plan; and

WHEREAS, prior to the most recent Borough of South Bound Brook Housing Plan Element & Fair Share Plan, in 2023 the State of New Jersey provided a framework for municipalities to achieve constitutional compliance with regard to creating a realistic opportunity for producing a fair share of affordable housing for the Fourth Round; and

WHEREAS, N.J.S.A. 4:55D-62 provides the governing body with the power to create zoning districts and related requirements to effectuate the Borough Master Plan and Housing Plan Element and Fair Share Plan; and

WHEREAS, the Borough Council recognizes the importance of providing a realistic opportunity to produce its fair share obligation for the Fourth Round and to allow for the opportunity of housing choices within the Borough.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of South Bound Brook, County of Somerset, State of New Jersey, that a Multi Family Inclusionary Zone (MFIZ-I) is hereby established and applied to certain lands along Main Street as follows:

SECTION 1. Chapter 34 entitled “Zoning” of the Borough of South Brook, is hereby amended and supplemented to create a new zoning district to be added as Article XLIII, entitled MFIZ-I as follows:

§34-51 Multi Family Inclusionary Zone (MFIZ-I) District Overlay. The purpose of the Multi Family Inclusionary Zone is to implement the Borough Housing Plan Element and Fair Share Plan by providing for the opportunity to develop inclusionary residential developments that incorporates an appropriate affordable housing set-aside to address the unmet need of the Fourth Round obligation of the Borough for the period 2025-2035. The MFIZ-I district provides for the development of affordable housing for low- and moderate-income housing in a suitable location.

- (1) Applicability. The Multi Family Inclusionary Zone District shall be applied to those properties being known as: Block 42 Lots 8, 11, and 13; Block 46 Lots 12 and 13; Block 58 Lots 1, 9, 10, and 11; Block 60, Lots 1-4; Block 63 Lots 1-3; Block 65 Lots 1, 4, 10, and 14; and Block 67 Lots 1-7 in the Borough Tax Map. The Official Zoning Map of the Borough of South Bound Brook is hereby amended in accordance with the foregoing and is incorporated by reference. The Multi Family Inclusionary Zone District shall be permitted to be developed with a multi-family residential development, provided that a 20% affordable set-aside for for-sale units and 15% affordable set-aside for rental units. All development of affordable units shall follow

the very-low/low/moderate income split provided for in the Uniform Housing Affordability Controls (N.J.A.C. 5:50-26.1 et seq). For the purpose of permitting the development of inclusionary developments the provisions and requirements of the Multi Family Inclusionary Zone District shall supersede the provisions and restrictions of the underlying zone districts. In the event of a conflict between the provisions of this section and other sections of the Township development regulations with respect to the development of affordable housing, the provisions of the MFIZ-I District shall govern.

- (2) Principal Permitted Use in the Multi Family Inclusionary Zone District shall be inclusionary multifamily affordable housing developments which may include:

- (a) Apartments
- (b) Multifamily dwellings
- (c) Any development undertaken under the regulations of the MFIZ-I District shall provide an affordable set-aside of 20% for for-sale developments and 15% for rental developments.

- (3) Accessory Uses. The following shall be permitted:

- (a) Open space area(s);
- (b) Clubhouse;
- (c) Outdoor pool(s);
- (d) Off-street parking facilities including driveways;
- (e) Fences in accordance with the applicable Township standards;
- (f) Signs in accordance with the standards in Article XII of Chapter 112 of the Township Code;
- (g) Sidewalks in accordance the Township Code; and
- (h) Other uses which are customarily incidental and accessory to the principal use.

- (4) Maximum Density.

- (a) Multifamily affordable housing development. 40 dwelling units per gross acre, provided that a minimum of set-aside of units is met and meet UHAC requirements.
- (5) Bulk, area, and building requirements. The following requirements shall apply for all permitted uses:

BULK STANDARDS
Minimum Lot Area
Minimum Lot Width

Permitted
10,000 sq. ft.
100 Feet

Minimum Front Yard Setback	0 Feet
Minimum One Side Yard Setback	5 Feet
Minimum Both Side Yard Setback	10 Feet
Minimum Rear Yard Setback	10 Feet
Maximum Impervious Coverage	80%
Maximum Building Coverage	60%
Maximum Building Height	4 Stories/50 Feet

(6) Site Improvement Standards.

- (a) The proposed development(s) shall be served by public water and sewer. The phasing of utility improvements, if necessary, shall be subject to the review and approval of the Planning Board.
- (b) The proposed development shall be planned and designed to meet the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21 et seq.).
 - [1] All roadways, parking areas, and landscaped islands shall be private and maintained by a property management entity, except that access roads across lands dedicated to and accepted by the Township for public use may be public roads.
 - [2] Parking standards shall be conforming with the New Jersey Residential Site Improvement Standards for garden apartments (N.J.A.C. 5:21 et seq.).
 - [3] As part of final approval, the development shall provide a municipal services agreement with the Township for the contribution by the Township for maintenance, snow plowing, refuse removal and lighting in accordance with the municipal policies in effect at the time of approval.
- (c) The development(s) shall provide for stormwater management in accordance with all applicable regulations. Stormwater management facilities provided as part of a one-hundred-percent affordable development shall be maintained by a property management entity. The phasing of stormwater management improvements, if necessary, shall be subject to the review and approval of the Planning Board and shall be completed in a manner that services the development areas as construction progresses.
- (d) Affordable housing requirements. Residential development projects developed under the provisions of the MFIZ-I shall provide for the development of affordable housing as outlined in this Chapter.

Borough of South Bound Brook – Housing Plan Element and Fair Share Plan - Appendices

APPENDIX 7 – SPENDING PLAN

**BOROUGH OF SOUTH BOUND BROOK
DEVELOPMENT FEE SPENDING PLAN****INTRODUCTION**

The Borough of South Bound Brook, 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.), the Fair Housing Act (N.J.S.A. 52:27D-301), and in accordance N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:91-1 et seq. A development fee ordinance creating a dedicated revenue source for affordable housing will be implemented and will be applied after the adoption and endorsement of the Housing Plan Element and Fair Share Plan by the Borough Planning Board and Council.

1. REVENUES FOR CERTIFICATION PERIOD

As of December 31, 2024, the Borough of Bound Brook has collected \$25,870.75 and expended \$0, resulting in a balance of \$25,870.75. 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 in accordance with applicable affordable housing regulations as described in the sections that follow.

To calculate a projection of revenue anticipated, the Borough of South Bound Brook 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) of on-site construction:

Payments in lieu (PIL) of construction from residential developers that have or are expected to enter into an agreement with the Borough to make a specific payment to the Affordable Housing Trust Fund in lieu of providing affordable housing units onsite.

At this time, the Borough is not anticipating any payments in lieu of construction.

(c) Other funding sources

Potential funds from other sources include the sale of units with extinguished controls, repayment of affordable housing program loans (such as rehabilitation or down payment assistance), rental income, and proceeds from the sale of affordable units.

Any such payments will be accepted, but at this time the Township is not anticipating any alternative sources of revenue, and no projections of revenue derive from such payments.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

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

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Bound Brook's to-be-adopted development fee ordinance for both residential and non-residential developments 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:

Development fee revenues are distributed under the same procedures for any bill or purchase in the Borough. Purchase orders are requested and processed and approved by the Governing Body.

Table 1. Projected Revenues 2025 - 2035													
Starting Balance (12/31/2024)	\$25,870.75	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	
SOURCE OF FUNDS													Total
(a) Development Fees:		\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$55,000
1. Approved Development		-	-	-	-	-	-	-	-	-	-	-	\$0
2. Development Pending Approval		-	-	-	-	-	-	-	-	-	-	-	\$0
3. Projected Development		\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$55,000
(b) Payments in Lieu of Construction		-	-	-	-	-	-	-	-	-	-	-	\$0
(c) Other Funds		-	-	-	-	-	-	-	-	-	-	-	\$0
(d) Interest on Total Account Balance		\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$1,100
Total		\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100	\$56,100

Plumsted projects a total revenue of \$56,100 to be collected from December 31, 2024 through July 2035. Adding the projected revenue to the trust fund balance of \$25,870.75 as of May 30, 2025, results in an estimated total potential revenue of \$81,970.75 available to fund, support, and administer affordable housing in the Township.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

The Borough of South Bound Brook has rehabilitation obligation of 67 units. The Borough will continue to participate in the Somerset County CDBG and HOME Investment Partnership Program. Additionally Township shall dedicate \$40,000 to rehabilitate at least 10 units. The other are anticipated to be rehabilitated through County and CDBG program.

- **Rehabilitation (up to 10 units)** \$40,000.00

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

The Borough of South Bound Brook will dedicate a minimum of **\$25,576.60** for affordability assistance as calculated below.

Table 2. Minimum Affordability Assistance		
Actual development fees and interest through 12/31/2024		\$25,870.75
Development fees projected 2025-2035	+	\$55,000.00
Interest projected 2025-2035	+	\$1,100.00
Other funds (PIL)	+	\$0.00
Less housing activity expenditures through 12/31/2024	-	\$0.00
Less projected Rehabilitation Program expenditures through 2035	-	\$0.00
Total	=	\$81,970.75
30 percent requirement	x 0.30 =	\$24,591.23
Allocated amount for affordability assistance		\$25,576.60
Less affordability assistance expenditures through 2/15/2025	-	\$0.00
Projected Minimum Affordability Assistance Requirement 02/15/2025 through 06/30/2035	=	\$24,591.23
Projected Minimum Very Low-Income Affordability Assistance Requirement 12/31/2024 through 06/30/2035	x 0.34 =	\$8,696.05

The programs identified to provide affordability assistance to low and moderate income households are as follows:

1. Down Payment Assistance and HQS Improvement Program: \$16,880.55

This program provides down payment and closing cost assistance to qualifying buyers of deed restricted low- or moderate-income units. The down payment assistance is in the form of an interest free loan that is forgiven if the borrower continues to occupy the affordable unit as their primary residence for 10 years following the date of purchase. The program offers up to \$15,000 or 15% of the purchase price, whichever is less. The Borough shall consider to adopt this ordinance in order to provide affordability assistance. The Borough's Down Payment Assistance Program requires that home meet HUD Housing Quality Standards prior to disbursement of the down payment funds.

This program shall enable the Administrative Agent to coordinate with the buyer and seller to ensure that the required repairs and improvements are made prior to closing.

2. Very-Low Income Units: \$8,696.05

The Borough is required to ensure that thirteen percent (13%) of all affordable units approved after July 2025 are "very low income" units. Very low-income households are defined as those

with a total gross annual household income equal to 30 percent or less of the regional median household income. The very-low Income affordability assistance program enables a developer of low- and moderate-income units to be provided a subsidy for providing very low-income units. The subsidy will be an up-front payment for re-pricing units that otherwise would be “low” income units as “very low income” units. The appropriate subsidy will be determined on a case-by-case basis at the Township’s discretion and as funds allow. For rental units the subsidy would represent the present-day value of the difference between the “low” income rent and the “very low” income rent for the restriction period. For ownership units, the subsidy would be the difference in the “low” and “very low” income affordable sales price.

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

Table 3. Administrative Expense Calculation		
Actual development fees and interest through 02/15/2025		\$25,870.75
Development fees and funds and interest projected 2025-2035	+	\$56,100.00
	-	\$0.00
Less Payment in Lieu Funds	-	\$0.00
Total	=	\$81,970.75
Calculate 20 percent	x .20 =	\$16,394.15
Less administrative expenditures through 12/31/2024	-	\$0.00
Projected maximum allowable for administrative expenses 02/15/2025 through 06/30/2035	=	\$16,394.15

The Borough of South Bound Brook projects that a total **\$16,394.15** 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: Rehabilitation Administration fees, Planner fees and other Administrative Agent fees, as well as Attorney fees in connection with the implementation of the affordable housing programs set forth in this Spending Plan. In no case shall administrative expenditures exceed 20 percent of the development fees collected in any given year.

4. EXPENDITURE SCHEDULE

TABLE 4. Projected Expenditure Schedule 2025-2035											
Programs	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	Total
Rehabilitation Program	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$40,000
Affordability Assistance	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$2,557.66	\$25,576.60
Administration	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$1,639.42	\$16,394.15
Total	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$8,197.08	\$81,970.75

South Bound Brook intends to use affordable housing trust fund revenues for the rehabilitation program, for affordability assistance, and for administration as set forth above. The Township will commit funds to specific programs as outlined above, or the plan will be amended.

5. EXCESS OR SHORTFALL OF FUNDS

The Borough will address any expected or unexpected revenue shortfalls due to available appropriations. In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the Spending Plan, these excess funds will be used to fund additional rehabilitation and affordability assistance programs, as well as for additional administrative expenditures up to the 20 percent cap.

SUMMARY

The Borough of South Bound Brook has a balance of **\$25,870.75** as of December 31, 2024 and anticipates an additional **\$56,100** in revenues, including interest, for a total of **\$81,970.75**. The municipality will dedicate a total of **\$40,000** towards rehabilitation projects. In addition, the Township has dedicated an additional **\$16,394.15** for administrative costs, within the threshold of the 20% cap on administrative costs. In addition, Township shall dedicate, **\$25,576.60** towards affordability assistance including **\$8,696.05** as very low income assistance. Total projected expenditures amount to **\$81,970.75**.

Table 5. Spending Plan Summary	
Balance as of December 31, 2024	\$25,870.75
Projected Revenue 2025-2035	\$56,100.00
Development Fees	\$55,000
Other Funds	\$0.00
Interest	\$1,100
TOTAL REVENUE	\$81,970.75
Expenditures	
Funds used for Rehabilitation	\$40,000.00
Administration	\$16,394.15
Affordability Assistance	\$25,576.60
TOTAL PROJECTED EXPENDITURES	\$81,970.75
REMAINING BALANCE	\$0.00

*Actual affordability assistance minimums are calculated on an ongoing basis, and are predicated upon actual revenues collected through 2025.