



HOUSING ELEMENT AND FAIR SHAIR PLAN

Town of Newton, Sussex County

May 21, 2025

Prepared by:



**J Caldwell
& Associates, LLC**
Community Planning Consultants

2025 Housing Element and Fair Share Plan

Town of Newton Sussex County, New Jersey

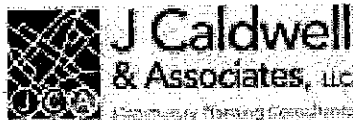
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MAY 2025

Prepared by:



Jessica C. Caldwell, PP, AICP, LEED-GA
NJPP License #5944

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1. Introduction

1.1 Community Overview

The Town of Newton is the County Seat of Sussex County, New Jersey. It is located in the northwestern part of the state specifically in the Ridge and Valley Region, situated west of the Highlands Region. Of Sussex County's 24 municipalities, Newton is the eighteenth-largest in area with a total of 2,163.86 acres and the fifth-largest in population (8,374, per the U.S. 2020 Decennial Census). The Town is the third-densest municipality in Sussex County.

Bordering municipalities include Hampton Township to the north, Andover Township to the south and east, and Fredon Township to the west. There are various arterial rights-of-way that traverse through the Town including, U.S. Route 206¹ – a major thoroughfare that runs north to south through Newton. Other major roads include High Street, which becomes N.J. Route 94 to the west, and Spring Street, which serves as a main anchor for the Town's historic core and central business district.

Newton is a mature community that encompasses several distinct neighborhoods and growth areas. Land use throughout is divided between, public property/parks/preserved open space, roadways, schools, critical infrastructure, emergency services, municipal facilities, commercial and residential development, houses of worship, and privately owned vacant land. Within Newton's 2,163.86-acre boundary, 1,267.54 acres (58.6%) are urban, 479 acres are forested, 312.86 acres are designated commercial/industrial, 688.61 acres are residential, and 299.63 acres are preserved as open space. If surface water bodies were removed from the town area, the area of Newton without surface water would be 2,149.16 acres. Newton has 45.27 acres of farmland and public water is provided by the Newton Public Water Supply System which includes the Morris Lake reservoir in Sparta and sewer wastewater is handled by the Newton Sewer Department.

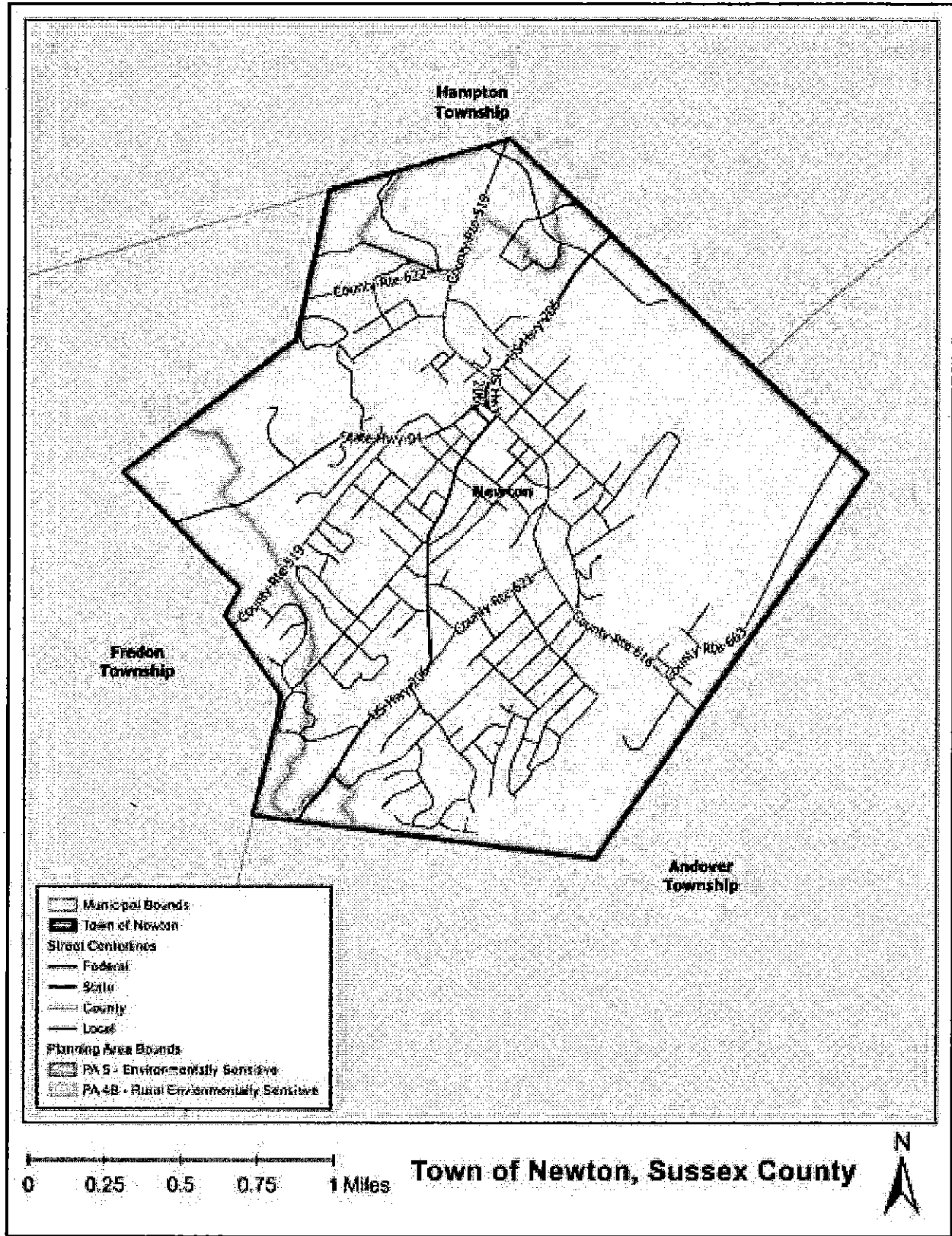
Newton is designated as a Regional Center by the State Planning Commission. While, the Town is located within the PA 4B – Rural Environmentally Sensitive² and PA 5 – Environmentally Sensitive³ State Development and Redevelopment Plan (SDRP) Planning Areas, the Regional Center designation supersedes the State Planning Areas. The Town of Newton first received Regional Center designation from the State Planning Commission in 1993 as the first Regional Center designated in the State. The Town received re-designation of its Regional Center in 2008, and later received Plan Endorsement in 2013. Plan Endorsement was recently renewed by the State Planning Commission on March 5, 2025.

¹ Also referenced as Water Street, Main Street, and Woodside Avenue.

² The PA 4B Planning Area (Rural Environmentally Sensitive Planning Area) in the SDRP includes rural lands with significant environmental features. Development is highly restricted to protect natural resources, with a focus on conservation, low-intensity land use, and limited intensity land use, and limited infrastructure expansion.

³ The PA 5 Planning Area (Environmentally Sensitive Planning Area) in the SDRP consists of lands with critical environmental features, such as wetlands, forests, and habitats. Development is highly restricted to protect ecological integrity, with strict land use controls and limited infrastructure expansion to prevent environmental degradation.

Figure 1. Context Map



1.2 Relationship to Other Plans

Town of Newton Master Plan

The most recent comprehensive Master Plan Update was prepared in 2008, with Reexamination Reports prepared in 2009, 2014, 2016, and 2019. The following goals and objectives which are of particular relevance to this Housing Element and Fair Share Plan are as follows:

1. To encourage municipal action to guide the appropriate use or development of all lands in Newton, in a manner that will promote the public health, safety morals, and general welfare;
2. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions and preservation of the environment;
3. To provide sufficient space in appropriate locations for a variety of residential, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all the citizens of Newton;
4. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
5. To encourage planned unit developments which incorporate the best features of design and relate the type, design, and layout of residential, commercial, and recreational development to the particular site;
6. To encourage senior citizen community housing construction;
7. To encourage development of affordable housing within the Town of Newton;
8. To encourage coordination of the various public and private procedures and activities shaping land development;
9. To balance market rate and affordable housing within neighborhoods.

These goals and objectives were first identified in the 2008 Master Plan Update and re-affirmed in subsequent Reexamination reports.

State Development and Redevelopment Plan (2001)

At the time of the preparation of this Housing Element and Fair Share Plan (HEFSP), the update to the SDRP is expected to be completed in late 2025. The last update to the SDRP was adopted in 2001 and identified several goals and objectives for housing, specifically as they relate to the PA 4B, the Rural/Environmental Sensitive Planning Area as well as the PA 5, the Environmentally Sensitive Planning Area. These goals, objectives, and policies, which in part guide the preparation of this HEFSP, are as follows:

1. **Housing:** Provide for a full range of housing choices primarily in Centers at appropriate densities to accommodate projected growth. Ensure that housing in general—and in particular affordable, senior citizen, special needs and family housing—is developed with

access to a range of commercial, cultural, educational, recreational, health and transportation services and facilities. Focus multi-family and higher-density, single-family housing in Centers. Any housing in the Environs should be planned and located to maintain or enhance the cultural and scenic qualities and with minimum impacts on environmental resources.

2. **Natural Resource Conservation:** Protect and preserve large, contiguous tracts and corridors of recreation, forest or other open space land that protects natural systems and sensitive natural resources, including endangered species, ground and surface water resources, wetland systems, natural landscapes of exceptional value, critical slope areas, scenic vistas and other significant environmentally sensitive features.
3. **Redevelopment:** Encourage environmentally appropriate redevelopment in existing Centers and existing developed areas that have the potential to become Centers or in ways that support Center-based development to accommodate growth that would otherwise occur in the Environs. Redevelop with intensities sufficient to support transit, a range of uses broad enough to encourage activity beyond the traditional workday, efficient use of infrastructure, and physical design features that enhance public safety, encourage pedestrian activity and reduce dependency on the automobile to attract growth otherwise planned for the Environs.
4. **Public Facilities and Services:** Phase and program for construction as part of a dedicated capital improvement budget or as part of a public/private development agreement the extension or establishment of public facilities and services, particularly wastewater systems, to establish adequate levels of capital facilities and services to support Centers; to protect large contiguous areas of environmentally sensitive features and other open spaces; to protect public investments in open space preservation programs; and to minimize conflicts between Centers and the Environs. Encourage private investments and facilitate public/private partnerships to provide adequate facilities and services, particularly wastewater systems, in Centers. Make community wastewater treatment a feasible and cost-effective alternative.
5. **Intergovernmental Coordination:** Coordinate efforts of state agencies, county and municipal governments to ensure that state and local policies and programs support environmental protection by examining the effects of financial institution lending practices, government regulation, taxation and other governmental policies and programs.

The Town of Newton strives to ensure the implementation of this HEFSP is consistent with the above-mentioned policies and objectives while respecting existing community characteristics and natural resources.

County Comprehensive Plan

The Sussex County Strategic Growth Plan (SGP) was adopted in 2005 to provide guidance of the county's development in a sustainable manner. This HEFSP is consistent with the following goals and policy objectives outline in the 2005 Sussex County SGP:

1. Minimize sprawl through incentives for density transfer and focus development into designated growth areas (centers); and
2. Expand the range of housing opportunities through judicious planning of service infrastructure.

Surrounding Municipalities' Master Plans

Andover Township, Sussex County

Approximately three (3) miles of Newton's southern and eastern border is shared with Andover Township and the municipalities are connected via U.S. Route 206, Sparta Avenue/Newton Sparta Road, and Hicks Avenue/Warbase Junction Road (County Route 663). Andover last prepared a Reexamination Report of its Master Plan and is not significantly impacted by this HEFSP.

Fredon Township, Sussex County

Around 2.5 miles of Newton's western border is shared with Fredon Township. Several local roads connect these municipalities, including N.J. Route 94, Swartwood Road (County Route 622), and West End Avenue/Ridge Road (County Route 519). This HEFSP does not significantly impact Fredon's Master Plan.

Hampton Township, Sussex County

Portions of Newton's northern border is shared with Hampton Township. Several local roads connect these municipalities, including U.S. Route 206/N.J. Route 94/Water Street, Swartwood Road (County Route 622), Mill Street/Newton Halsey Road (County Route 519), and Old Newton Swartwood Road. This HEFSP does not significantly impact Hampton's Master Plan.

1.3 History of Affordable Housing Compliance

Overview

The New Jersey Supreme Court, in Mount Laurel I (1975) and Mount Laurel II (1983) required all New Jersey municipalities to take affirmative actions toward providing their "fair share" of the region's need for affordable housing for low- and moderate-income people. In response to the Mount Laurel II decision, the New Jersey Legislature adopted the Fair Housing Act ("FHA") in 1985. This act created the Council on Affordable Housing ("COAH") to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation. Subsequently, the New Jersey Municipal Land Use Law ("MLUL") was amended to require a housing element as a mandatory element of the municipal master plan. According to the MLUL, "a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing (52: 27D-310)."

COAH adopted its Third Round Rules in December 2004. On January 25, 2007, the Appellate Division issued a decision on an appeal of COAH's Third Round regulations. COAH was precluded from issuing Third Round Substantive Certifications until new rules for the Third Round

were revised and adopted. On October 8, 2010, the Appellate Division invalidated COAH's Rules in In re Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010). The decision stated, among other things, that growth share methodology was invalid, and directed COAH to adopt rules utilizing methodologies similar to those used in the First and Second Round Rules. On September 26, 2013 the Supreme Court affirmed the Appellate Division's 2010 decision and remanded COAH to undertake new rulemaking based on COAH's prior round rules and methodologies. COAH failed to formally adopt amended Third Round Rules.

In a 2015 decision known as Mount Laurel IV, the New Jersey Supreme Court divested COAH of jurisdiction of affordable housing, resulting in the process being left to the trial court system. This ruling dissolved the substantive certification process, turning instead to a judicial determination wherein a municipality files for a declaratory judgment action to certify that their Housing Element and Fair Share Plan has satisfied their Third Round obligation. At the same time, the Court appointed "Mount Laurel" judges for each of the State's judicial vicinages.

In 2024, New Jersey Legislature passed into law amendments to the Fair Housing Act (N.J.S.A. 52:27D-304.1 et seq. via NJ A4/S50) ("Amended FHA" or "P.L. 2024, c.2") that abolished and replaced COAH with the Affordable Housing Dispute Resolution Program ("the Program"), and set forth new methodology for the calculations of a municipality's affordable housing obligations for the Fourth Round and beyond.

Town of Newton

Newton is in Affordable Housing Region 1, which includes Sussex, Passaic, Bergen, and Hudson Counties.

Prior Rounds

Newton petitioned for, and received, Substantive Certification from COAH for Rounds 1 and 2 on November 1, 2000. The Town had fully addressed its Prior Round obligation of 24 units, as outlined in the tables below. Therefore, Newton had no Prior Round obligation to address going forward.

As part of this certification, Newton claimed seven (7) prior cycle credits for the development of a group home for developmentally disabled adults in 1981, partnering with the Sussex County ARC (SCARC, Inc.). Newton addressed the remaining 17-unit obligation through three (3) additional rental projects: the Birth Haven Group Home (6 units), Bristol Glen Assisted Living Facility (1 unit) and the Merriam Gateway Inclusionary Project (6 units + 4 credits).

Table 1. Prior Cycle Credits

Project Name	Year	Type	Units
Sussex ARC Group Home	1981	Special Needs Rental	7
Total			7

Table 2. Post-1986 Credits

Project Name	Year	Type	Units	Bonuses	Total
Birth Haven Group Home	1995	Special Needs Rental	6	0	6
Merriam Gateway Inclusionary Project	1997	Rental	6	4	10
Bristol Glen Assisted Living Facility	2001	Age-Restricted Rental	1	0	1
Total			13	4	17

Third Round

COAH adopted its Third Round regulations on December 20, 2004, requiring Newton to petition for Third Round Substantive Certification in order to remain under COAH's jurisdiction. However, these rules were struck down by the Courts leading to delays and uncertainty at the State level regarding affordable housing requirements and the number of affordable housing units the Town is required to provide.

The Town of Newton adopted a Housing Element and Fair Share Plan in June 2010 in order to petition for Substantive Certification under COAH's Third Round Rules. Since that time, the New Jersey Supreme Court in In re Adoption of N.J.A.C. 5:96 and 5:97 invalidated COAH's Third Round Rules and ordered municipalities under COAH's administrative review jurisdiction to file declaratory judgement actions with the Court by July 8, 2015 so that the Court can complete the review of their affordable housing compliance initiatives and make a determination of constitutional compliance with their affordable housing obligation.

Therefore, in order to determine its share of the regional present and prospective need for affordable housing, Newton utilized the methodology provided in the 2015 report "New Jersey Low- and Moderate-Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology," prepared by David N. Kinsey, PhD, FACIP, PP, for the Fair Share Housing Center (hereafter, the "Kinsey Report"). The Kinsey Report identified a Third Round Net Prospective Need for the period of 1999-2025 for the Town of Newton of 83 units and rehabilitation share of 72 units.

The New Jersey Supreme Court in In re Adoption of N.J.A.C. 5:96 AND 5:97 invalidated COAH's Third Round Rules and ordered municipalities under COAH's administrative review jurisdiction to file declaratory judgement actions with the Court by July 8, 2015. Newton sought a declaratory judgement that the Town is in compliance with its constitutional obligation to provide affordable housing and requested five (5) months to submit a revised Housing Element and Fair Share Plan, including a revised Spending Plan. This revised 2016 Housing Element and Fair Share Plan incorporates all of the required elements prescribed by the MLUL for a housing element in addition to addressing how the Town will provide the realistic opportunity to meet the present and prospective regional need of affordable housing.

A Declaratory Judgement was granted by Superior Court by Order on May 27, 2016, finding that the Town of Newton is in compliance with its constitutional obligations for affordable housing and provides a realistic opportunity for low- and moderate-income housing. The Superior Court of New Jersey Law Division, Sussex County, approved the Town of Newton's Housing Element and Fair Share Plan, dated December 2015. The Town was granted immunity from builder's remedy litigation and exclusionary zoning challenges for a period of 10 years through July 2025.

The Third Round obligation for the Town approved by the Superior Court included 72 units of rehabilitation need and 83 units of prospective need.

The Rehabilitation/Present Need Obligation was addressed through a combination of inclusionary zoning policies, redevelopment area designations, municipally sponsored, 100 percent affordable construction program, special needs and supportive housing, and the Town's rehabilitation program through the use of Elder Cottage Housing Opportunity (ECHO) housing⁴ and the creation of new units (N.J.A.C. 5:93-5.1).

⁴ In reference to DCA Bulletin 95-2, Elder Cottage Housing Opportunity (ECHO) dwelling units are defined as, "Small, manufactured housing units installed on the same lot as a single-family dwelling occupied by the family of the elderly

Fourth Round

On March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c.2), which set forth the rules and regulations governing the Fourth Round (2025-2035) of affordable housing obligations in New Jersey. This law abolished COAH and shifted implementation of the Fair Housing Act to the New Jersey Department of Community Affairs (DCA), creating the Affordable Housing Dispute Resolution Program (the Program).

On October 18, 2024, the Department of Community Affairs ("DCA") prepared and submitted a non-binding report ("DCA Report")⁵ on the Fourth Round affordable housing fair share obligations for all municipalities within the State of New Jersey. The DCA indicated that Newton's Fourth Round Present Need/Rehabilitation Obligation is 45 units and the Prospective Need is 72 units. The FHA, as amended by P.L. 2024, c.2, ("Amended FHA") explicitly stated the DCA's numbers are non-binding.

On January 27, 2025, pursuant to P.L.2024, c.2, the Town Council adopted Resolution #73-2025, committing to its fair share obligation for the Fourth Round (2025-2035) of a present need of obligation of 45 units and prospective need obligation of 72 units.

Given that there were no challenges by interested parties to the adopted number, the Town of Newton's Fourth Round obligation was established by default on March 1, 2025.

Timeline of Affordable Housing Compliance

November 1, 2000	Town of Newton receives Substantive Certification from COAH for Round 2.
December 2004	COAH adopts Third Round Rules
January 25, 2007	Appellate Division issued a decision requiring COAH revise Third Round Rules
October 8, 2010	Appellate Division invalidates COAH's Rules – growth share methodology is invalid; COAH must adopt rules utilizing methodologies similar to those used in the First and Second Round Rules.
September 26, 2013	Supreme Court affirms October 2010 decision, remands COAH to undertake new rulemaking based on Prior Round Rules and Methodologies
March 10, 2015	Supreme Court divests COAH of jurisdiction of affordable housing and municipalities must file declaratory judgment actions with the Court by July 8, 2015.
May 27, 2016	A Declaratory Judgement was granted by Superior Court by Order to the Town of Newton. Newton's 2016 Housing Element and Fair Share Plan was approved September 2016.
March 20, 2024	Governor Murphy signs Bill A4/S50 (P.L. 2024, c.2), which sets forth the rules for the Fourth Round of affordable housing in New Jersey and creates the Affordable Housing Dispute Resolution Program

person or couple. The intention is to allow senior citizens to live independently, but in close proximity to family members who can provide assistance as needed."

⁵ NJ DCA, Affordable Housing Obligations for 2025-2035 (Fourth Round): Methodology and Background, October 2024.

October 18, 2024	The NJ Department of Community Affairs publishes non-binding present and prospective need obligations
January 27, 2025	Town of Newton adopts Resolution #73-2025 adopting Fourth Round affordable housing obligations.
January 29, 2025	A Declaratory Judgment Action, Docket No. SSX-L-000062-25 was filed with the Superior Court seeking approval of the Town's affordable housing obligation and review of its Housing Element and Fair Share Plan under the Fourth Round regulations prior to the January 31, 2025 statutory deadline.
March 1, 2025	Town of Newton's obligations set forth in Resolution #73-2025 are established by default.
June 30, 2025	Deadline for submission of the Town of Newton's Housing Element and Fair Share Plan to the Dispute Resolution Program addressing the Fourth Round obligations as established by Resolution #73-2025.

1.4 Purpose and Goals

The purpose of this Housing Element and Fair Share Plan is to provide a realistic opportunity to address the housing needs of Newton residents across all income levels. This plan proposes multiple opportunities to develop a variety of housing types to meet these needs, which can be integrated into the existing land use pattern and character of the Town. This Plan has been prepared to meet the requirements of the MLUL, Fair Housing Act (FHA), the New Jersey State Development and Redevelopment Plan (SDRP), and Bill A4/S50 (P.L. 2024, c.2).

This HEFSP supports the goals of the Town's 2019 Master Plan Reexamination, which affirmed the following goals from the 2008 Master Plan:

1. To encourage municipal action to guide the appropriate use or development of all lands in Newton, in a manner that will promote the public health, safety morals, and general welfare;
2. To provide adequate light, air, and open space;
3. To ensure that the development of the Town does not conflict with the development and general welfare of neighboring municipalities, the County, and the State as a whole;
4. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions and preservation of the environment;
5. To provide sufficient space in appropriate locations for a variety of residential, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all the citizens of Newton;
6. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
7. To encourage senior citizen community housing construction;
8. To encourage development of affordable housing within the Town of Newton;

9. To encourage coordination of the various public and private procedures and activities shaping land development;
10. To balance market rate and affordable housing within neighborhoods.

1.5 Contents of the Plan

Municipal Land Use Law, the Fair Housing Act, and Administrative Directive #14-24 require that the Housing Element and Fair Share Plan include the following:

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;
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;
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 detailed site suitability analyses, based on the best available data, for each of the un-built inclusionary or 100 percent affordable housing sites in the Plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection;
8. The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis;
9. Documentation of the creditworthiness of all of the existing affordable housing units in its HEFSP and to demonstrating that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of

affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided;

10. An analysis of how the HEFSP complies with or will comply with all terms of the executed settlement agreement;
11. An appendix that includes all of the adopted ordinances and resolutions needed to implement the HEFSP.

2. Demographics

2.1 Population

Population Change, 1990-2020

In 1990, the Town of Newton had a population 7,521, which saw an increase to 8,244 in 2000. However, by 2010, there was a decrease in growth to 7,997 (a difference of about 3% or 247 residents) followed by a rise to 8,374 in 2020 (a difference of around 5% or 377 residents). This trend differs to that of the growth in Sussex County and New Jersey, between 2000 and 2010, where the county and state continued to increase in population.

Table 3. Population Change, 1990 - 2020

	1990	% Change	2000	% Change	2010	% Change	2020
Town of Newton	7,521	+ 9.6	8,244	- 2.9	7,997	+ 4.7	8,374
Sussex County	130,943	+ 10.0	144,166	+ 3.5	149,265	+ 3.3	144,221
New Jersey	7,730,188	+ 8.8	8,414,347	+ 4.4	8,791,894	+5.65	9,288,994

SOURCES:

1990 – 2010: UNITED STATES CENSUS BUREAU, 2010 CENSUS, TABLE 8 "POPULATION AND HOUSING UNITS: 1990 TO 2010; AND AREA MEASUREMENTS AND DENSITY: 2010."

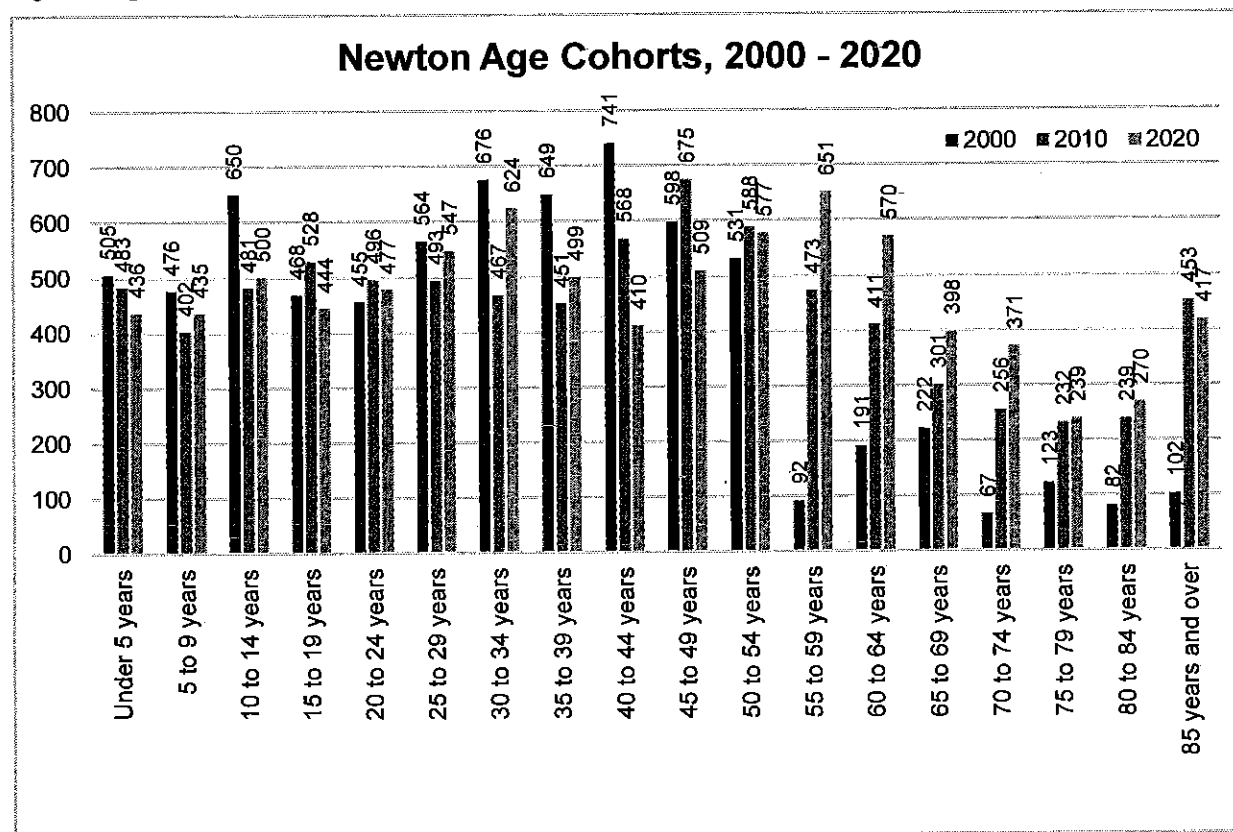
2020: UNITED STATES CENSUS BUREAU, 2020 DECENNIAL CENSUS, DP1, "PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS."

Age

In 2020, Newton's largest age cohort was for residents between the ages of 55 to 59 years. This is nearly seven times the size of this age cohort in 2000. As illustrated in Figure 1, Newton is seeing an increase in its older populations (**Figure 2**). Compared to Sussex County, the largest age cohort in 2020 were those between 45 to 54 years (14.5%) followed by 25 to 44 years (22.6%).⁶ Sussex County and the State are seeing an increase in its younger and middle-age populations and steady growth in its older population (**Figures 3 & 4**).

⁶ Individuals between 25 to 34 years comprise 11.3% in 2020; Individuals between 35 to 44 years comprise 11.3%, which results in 22.6% of the County altogether.

Figure 2. Age Cohorts, 2000-2020 (Newton)



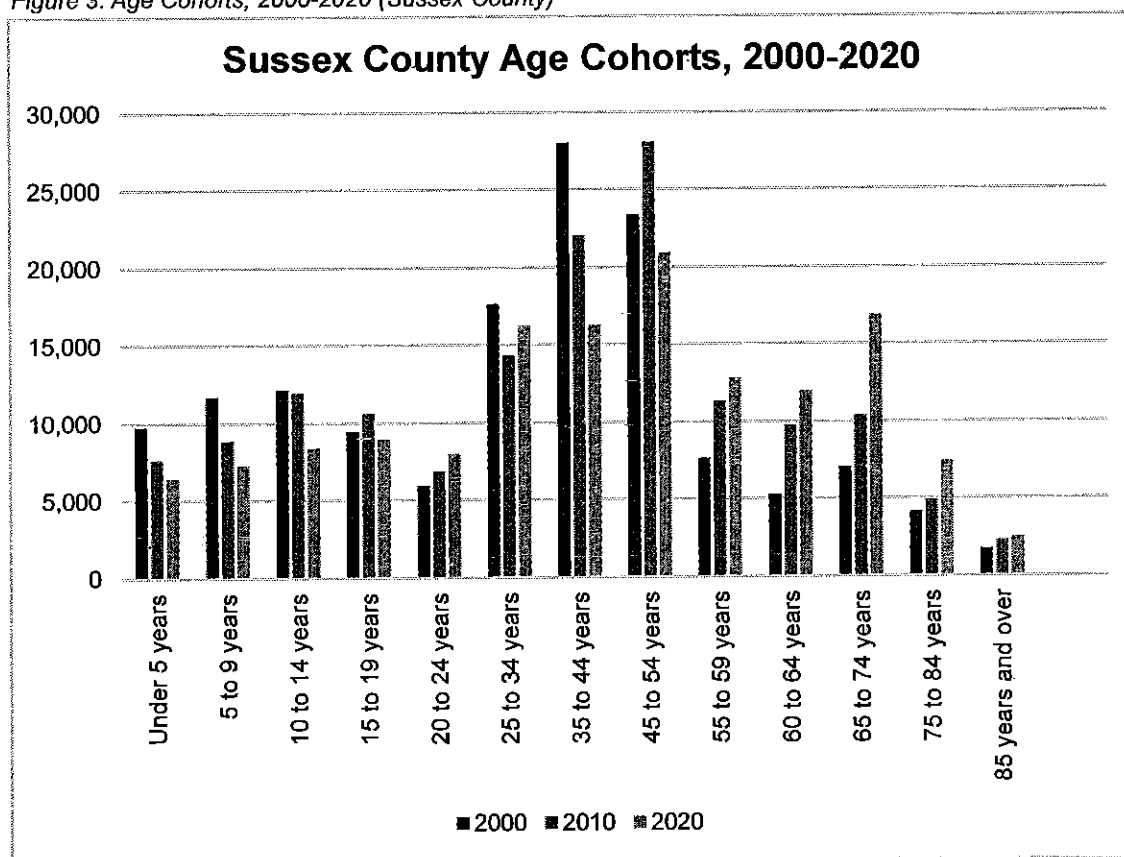
SOURCES:

2000: UNITED STATES CENSUS BUREAU, 2000 DECENNIAL CENSUS, P008, "SEX BY AGE [79]."

2010: UNITED STATES CENSUS BUREAU, 2010 DECENNIAL CENSUS, PCT3, "SEX BY AGE."

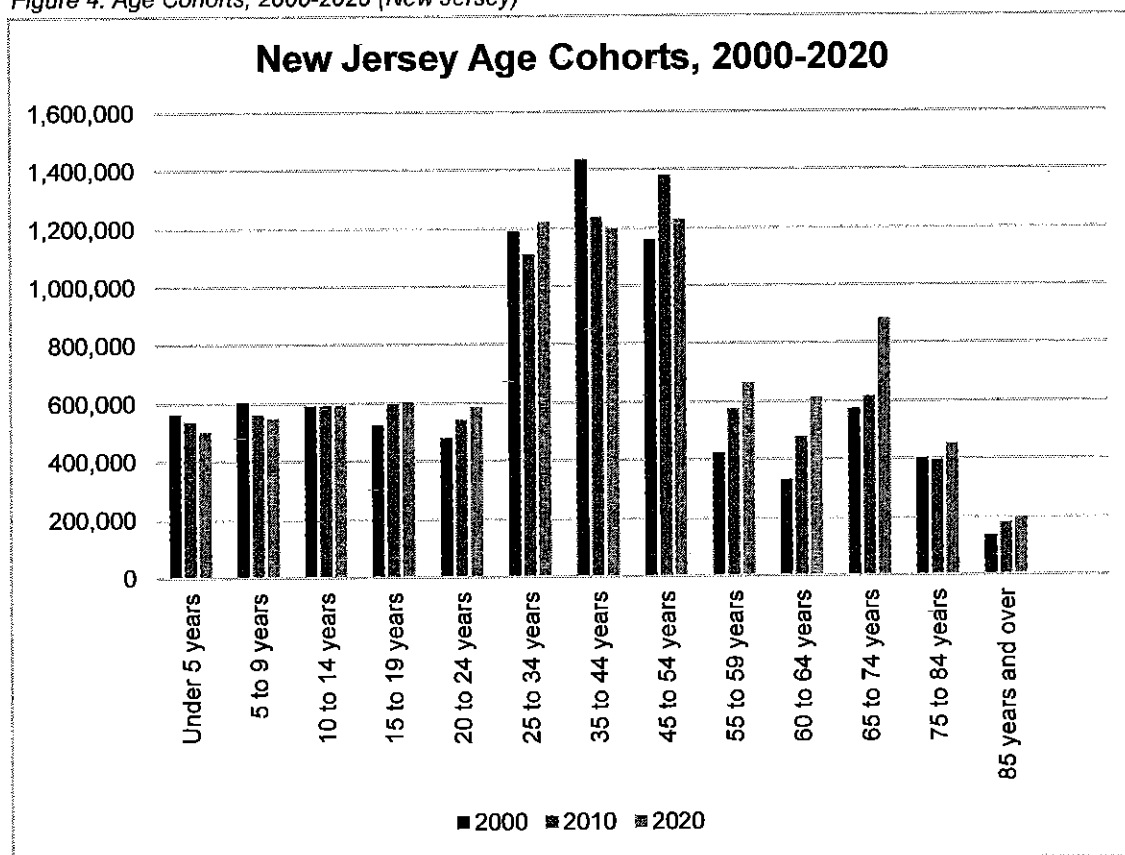
2020: UNITED STATES CENSUS BUREAU, 2020 DECENNIAL CENSUS, DP1, "PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS."

Figure 3. Age Cohorts, 2000-2020 (Sussex County)



SOURCES:
 U.S. Census Bureau. (2000). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *DECENNIAL CENSUS, DEC DEMOGRAPHIC PROFILE, TABLE DP1*.
 U.S. CENSUS BUREAU. (2010). DEMOGRAPHIC AND HOUSING ESTIMATES. *AMERICAN COMMUNITY SURVEY, ACS 5-YEAR ESTIMATES DATA PROFILE, DP05*.
 U.S. CENSUS BUREAU. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *DECENNIAL CENSUS, DEC DEMOGRAPHIC PROFILE, TABLE DP1*.

Figure 4. Age Cohorts, 2000-2020 (New Jersey)



SOURCES:

U.S. Census Bureau. (2000). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *DECENNIAL CENSUS, DEC DEMOGRAPHIC PROFILE, TABLE DP1.*

U.S. CENSUS BUREAU. (2010). DEMOGRAPHIC AND HOUSING ESTIMATES. *AMERICAN COMMUNITY SURVEY, ACS 5-YEAR ESTIMATES DATA PROFILE, DP05.*

U.S. CENSUS BUREAU. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *DECENNIAL CENSUS, DEC DEMOGRAPHIC PROFILE, TABLE DP1.*

Household Size and Type

Between 2000 and 2020, the U.S. Decennial Census reported an increase in the number of occupied housing units, where 3,258 were reported in 2000 and 3,459 were reported in 2020. Generally, the number of 1- and 2-person households fluctuated but increased over the last two decades, but 3- and 4-or-more-person households saw a decrease between 2000 and 2020. Across the County, there has been a gradual increase in the number of occupied housing units from 2000 to 2020 where 1-, 2-, and 3-person households grew while 4-or-more-person households declined. At the State level, household sizes remained relatively stable by percentage but grew in overall numbers.

Table 4. Household Size, 2000 - 2020

Household Size	2000	%	2010	%	2020	%
Total Occupied Housing Units (Newton)	3,258	100%	3,170	100%	3,459	100%
1-person household	1,093	33.5%	1,144	36.0%	1,360	39.3%
2-person household	947	29.1%	909	28.6%	1,044	30.2%
3-person household	508	15.6%	463	14.6%	467	13.5%
4-or-more-person household	710	21.7%	654	20.6%	588	17.0%
Total Occupied Housing Units (Sussex County)	50,831	100%	54,752	100%	55,915	100%
1-person household	9,595	18.9%	11,482	21.0%	13,056	23.3%
2-person household	15,742	31.0%	17,807	32.5%	19,604	35.1%
3-person household	9,361	18.4%	10,100	18.4%	9,690	17.3%
4-or-more-person household	16,133	31.7%	15,363	28.1%	13,565	24.3%
Total Occupied Housing Units (State)	3,064,645	100%	3,214,360	100%	3,426,102	100%
1-person household	751,353	24.5%	811,221	25.2%	876,661	25.6%
2-person household	927,354	30.3%	957,682	29.8%	1,026,368	30.0%
3-person household	531,987	17.4%	558,029	17.4%	592,617	17.3%
4-or-more-person household	853,951	27.9%	887,428	27.6%	930,456	27.2%

SOURCE:

U.S. Census Bureau. (2000). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H016.*

U.S. Census Bureau. (2010). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H13.*

U.S. Census Bureau. (2020). HOUSEHOLD SIZE. *Decennial Census, Demographic and Housing Characteristics, Table H9.*

Income

The median income for households in the Town of Newton in 2020, was \$66,763. Most (18.0%) households earned between \$100,000 and \$149,999. Since 2000, the Town has seen more households earning incomes between \$100,000 and \$149,999. While the median income in Newton remained lower than both the County and the State, Newton's median income increased by 38% over the last 20 years, while the County median income increased by 32% and the State median income by 35%.

Table 5. Income in the Past 12 Months, 2000 - 2020

Household Income	Percent of Households		
	2000	2010	2020
Total Households (Newton)	3,270	3,390	3,459
Less than \$10,000	10.8%	8.9%	5.9%
\$10,000 to \$14,999	7.1%	6.8%	5.1%
\$15,000 to \$24,999	11.5%	16.1%	10.6%
\$25,000 to \$34,999	11.3%	9.7%	9.5%
\$35,000 to \$49,999	16.4%	9.4%	7.4%
\$50,000 to \$74,999	21.5%	16.1%	15.8%
\$75,000 to \$99,000	10.8%	14.0%	12.6%
\$100,000 to \$149,999	8.8%	14.8%	18.0%
\$150,000 to \$199,999	1.6%	2.8%	8.7%
\$200,000 or more	0.2%	1.5%	6.4%
Newton Median household income	\$41,667	\$48,702	\$66,763
Sussex County Median household income	\$65,266	\$84,115	\$96,222
New Jersey Median household income	\$55,146	\$67,681	\$85,245

SOURCE: 2000: UNITED STATES CENSUS BUREAU, 2000 DECENNIAL CENSUS, DP3, "PROFILE OF SELECTED ECONOMIC CHARACTERISTICS."
 2010: UNITED STATES CENSUS BUREAU, 2010 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES, S1901, "INCOME IN THE PAST 12 MONTHS (IN 2010 INFLATION-ADJUSTED DOLLARS)."
 2020: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES, S1901, "INCOME IN THE PAST 12 MONTHS (IN 2020 INFLATION-ADJUSTED DOLLARS)."

2.2 Employment Characteristics

Workforce

In 2020, the ACS reported that Newton had a workforce population aged 16 and older of 6,932. Of this number, 4,403 were in the labor force,⁷ with 293 individuals reported as unemployed, resulting in an unemployment rate of 6.7 percent. Newton's unemployment rate is greater than that of the County (5.3%) and State (5.8%).

Table 6. Employment Status, 2020

Employment Status	Estimate	%
Population 16 years and older	6,932	100%
In labor force	4,403	63.2%
Civilian labor force	4,403	63.2%
Employed	4,110	59.0%
Unemployed	293	4.2
Armed Forces	0	0.0%
Not in labor force	2,559	36.8%
Unemployment rate (Newton)	6.7%	
Unemployment rate (Sussex County)	5.3%	
Unemployment rate (State)	5.8%	

SOURCE: U.S. CENSUS BUREAU. (2020). SELECTED ECONOMIC CHARACTERISTICS. AMERICAN COMMUNITY SURVEY, ACS 5-YEAR ESTIMATES DATA PROFILES, TABLE DP03.

Commuting Characteristics

Most of the Town's employed population worked within New Jersey (97.5%), according to the 2020 ACS. Of those that worked within the state, 54.1 percent

⁷ According to the United States Census Bureau Glossary, "The labor force includes all people classified in the civilian labor force, plus members of the U.S. Armed Forces (people on active duty with the United States Army, Air Force, Navy, Marine Corps, or Coast Guard). The civilian labor force consists of people classified as employed or unemployed."

worked in Sussex County. The 2020 ACS reported that 2.5 percent of Newton residents worked outside of New Jersey. Additionally, 43.4 percent of Newton workers were employed outside Sussex County. When commuting to work, the vast majority (89.2%) of workers took a car, truck, or van, and 80.8 percent of those who did, drove alone. This trend is similar to that of the County (88.7%), but not the State which saw 69.6 percent of workers commute via car, truck, or van. The ACS reported that in 2020, 3.0 percent of workers worked from home in Newton. Of those who commuted to work, most (27.3%) left after 9:00 a.m. and most (26.4%) had a commute time of less than 10 minutes. The mean travel time for all workers in 2020 was 29.2 minutes.

Table 7. *Commuting Characteristics, 2020*

Commuting Characteristics	Estimate
Workers 16 years and over	4,038
Means of Transportation to Work	
Car, truck, or van	89.2%
Drove alone	80.8%
Carpooled	8.4%
Workers per car, truck, or van	1.05%
Public transportation (excluding taxicab)	1.2%
Walked	4.1%
Bicycle	0.0%
Taxicab, motorcycle, or other means	2.5%
Worked from home	3.0%
Workers 16 years and over who did not work from home	3,916
Place of Work	
Worked in state of residence	97.5%
Worked in county of residence	54.1%
Worked outside county of residence	43.4%
Worked outside state of residence	2.5%
Time of Departure to go to Work	
5:00 a.m. to 5:29 a.m.	1.2%
5:30 a.m. to 5:59 a.m.	4.2%
6:00 a.m. to 6:29 a.m.	12.0%
6:30 a.m. to 6:59 a.m.	10.6%
7:00 a.m. to 7:29 a.m.	12.5%
7:30 a.m. to 7:59 a.m.	13.2%
8:00 a.m. to 8:29 a.m.	11.4%
8:30 a.m. to 8:59 a.m.	5.1%
9:00 a.m. to 11:59 a.m.	27.3%
Travel Time to Work	
Less than 10 minutes	26.4%
10 to 14 minutes	7.7%
15 to 19 minutes	8.9%
20 to 24 minutes	7.3%
25 to 29 minutes	6.7%
30 to 34 minutes	6.8%
35 to 44 minutes	10.1%
45 to 59 minutes	8.7%
60 or more minutes	17.5%
Mean travel time to work (minutes)	29.2

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

Employment by Industry

Of Newton's 4,038 residents that were employed in 2020, most (27.1%) work within educational services, and health care and social assistance followed by retail trade (15.8%), professional, scientific, management, administrative and waste management services (14.0%), and manufacturing (10.3%).

Of Sussex County's 75,433 residents employed in 2020, most (23.2%) work within educational services, and health care and social assistance followed by professional, scientific, management, administrative and waste management services (13.5%), retail trade (12.1%), and manufacturing (9.1%).

Whereas, the State's residents that were employed in 2020 had a similar makeup with Sussex County wherein most residents (24.1%) worked within educational services, and health care and social assistance followed by professional, scientific, management, administrative and waste management services (13.7%), retail trade (10.7%), and finance and insurance, and real estate, and rental and leasing (8.5%).

Table 8. Industries of Employment, 2020

Industry	Estimate	Percent
Agriculture, forestry, fishing and hunting, and mining	41	1.0
Construction	174	4.2
Manufacturing	423	10.3
Wholesale trade	84	2.0
Retail trade	650	15.8
Transportation and warehousing, and utilities	242	5.9
Information	70	1.7
Finance and insurance, and real estate and rental and leasing	193	4.7
Professional, scientific, and management, and administrative and waste management services	575	14.0
Educational services, and health care and social assistance	1,115	27.1
Arts, entertainment, and recreation, and accommodation and food services	278	6.8
Other services, except public administration	109	2.7
Public administration	156	3.8

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

3. Housing Characteristics

3.1 Inventory of housing stock

Housing Occupancy and Tenure

In 2020, the Decennial Census reported a total of 3,945 housing units. Of this number, 3,459 (87.7%) were occupied. More specifically, 55.2 percent of the units were owner-occupied, with the remaining 44.8 percent being renter-occupied. Newton's homeowner vacancy rate was 2.42 percent and the rental vacancy rate was 4.7 percent. However, Sussex County and New Jersey differ from Newton in which there are more occupied housing units and less vacant housing units. Additionally, the homeowner vacancy rate for the County (2.2%) and State (1.5%) is less than Newton's 2020 rate. The County and State rental vacancy rates are 6.8 percent and 5.7 percent respectively.

Table 9. Housing Occupancy and Tenure, 2020

Housing Occupancy and Tenure	Estimate	%
Newton		
Total housing units	3,945	100%
Occupied housing units	3,459	87.7%
Owner-occupied	1,911	55.2%
Renter-occupied	1,547	44.8%
Vacant housing units	486	12.3%
Sussex County		
Total housing units	62,702	100%
Occupied housing units	55,915	89.2%
Owner-occupied	45,705	72.9%
Renter-occupied	10,210	16.3%
Vacant housing units	6,794	10.8%
New Jersey		
Total housing units	3,761,229	100%
Occupied housing units	3,426,102	91.1%
Owner-occupied	2,098,500	55.8%
Renter-occupied	1,327,602	35.3%
Vacant housing units	335,127	8.9%

SOURCE: UNITED STATES CENSUS BUREAU, 2020 DECENNIAL CENSUS, DP1, "PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS."

Vacancy Status

Of the 287 vacant housing units reported in the 2020 Decennial Census, most (3.7%) were categorized as "for rent." The next highest category is "other vacant." This category includes a variety of situations,⁸ as follows:

1. The owner does not want to rent or sell;
2. The owner is elderly and living in a nursing home or with family members;
3. The unit is being held for the settlement of an estate;
4. The unit is being renovated; or
5. The unit is being foreclosed.

Table 10. Vacancy Status, 2020

Vacancy Status	Estimate	%
Total vacant units	287	7.8
For rent	136	3.7
Rented, not occupied	11	0.3
For sale only	34	0.9
Sold, not occupied	10	0.3
For seasonal, recreational, or occasional use	22	0.6
Other vacant	74	2.0

SOURCE: 2020: UNITED STATES CENSUS BUREAU, 2020 DECENNIAL CENSUS, DP1, "PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS."

There were 34 properties actively for sale, rather than for rent, that were vacant in 2020 in Newton. Properties that were actively for rent totaled 136 units, or 3.7 percent of the total vacant housing units. This is similar to that of the Sussex County where the number of properties actively for sale resulted in 1,044 units and for rent resulted in 753 units.

⁸ Kresin, M. "Other" Vacant Housing Units: An Analysis from the Current Population Survey/Housing Vacancy Survey." U.S. Census Bureau, Social, Economic, and Housing Statistics Division. Retrieved from <https://www.census.gov/housing/hvs/files/qtr113/PAA-poster.pdf>

Units In Structure

The Town of Newton's housing is primarily single-family detached housing units; these structures comprise 54.3 percent of the Town's housing stock. The next largest group consisted of structures having more than 20 or more units (19.0%), followed by 2-unit structures (6.5%). Sussex County provided similar data where single-family housing units (79.4%) made up the majority of the county's housing stock followed by single-family attached units (6.1%).

The ACS also provided a breakdown of the number of bedrooms in each unit. In 2020, most (35.7%) units contained 3 bedrooms, with 1- and 2-bedrooms comprising 23.4 percent and 23.0 percent respectively, followed by 13.5 percent containing 4 bedrooms. Additionally, 1.1 percent of all housing units had 5 or more bedrooms.

Year Structure Built

The 2020 ACS reported that structures built prior to 1939 saw the largest number of housing units built (1,289, or 37.3% of the total housing stock) than any other time period in the Town of Newton. Between 1960 and 1979, 24.8 percent of the Town's housing stock was constructed. Sussex County had 11,626 units (18.6%) built between 1970 and 1979.

Table 11. Units In Structure, 2020

Units In Structure	Count	%
Total housing units	3,945	100
1-unit, detached	2,141	54.3%
1-unit, attached	252	6.4%
2-units	256	6.5%
3 or 4 units	156	4.0%
5 to 9 units	182	4.6%
10 to 19 units	195	4.9%
20 or more units	749	19.0%
Mobile home	14	0.4%
Boat, RV, van, etc.	0	0.0%

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES, DP04, "SELECTED HOUSING CHARACTERISTICS."

Table 12. Year Structure Built

Year Structure Built	Count	%
Built 2014 or later	76	2.2%
Built 2010 to 2013	12	0.3%
Built 2000 to 2009	193	5.6%
Built 1980 to 1999	503	14.5%
Built 1960 to 1979	858	24.8%
Built 1940 to 1959	528	15.3%
Built 1939 or earlier	1,289	37.3%

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

3.2 Costs and Value

There are numerous methods by which to view the value of Newton's housing stock. The ACS provided counts for the following items: Selected Monthly Owner Costs (SMOC), the values of owner-occupied and renter-occupied units, and mortgage characteristics.

Selected Monthly Owner Costs

SMOC is a figure which consists of all costs associated with homeownership.⁹ In 2020, the ACS reported that the median SMOC for housing units with a mortgage in Newton was \$2,053. For those units without a mortgage, the median SMOC was \$955. Most (22.7%) owners of housing units with a mortgage had a SMOC between \$1,000 and \$1,499, and most (42.1%) owners of units without mortgages had ownership-related expenses of more than 1,000 per month. For renter-occupied units, of which 1,527 occupants were paying a median of \$1,150 per month. In 2020, 51.9 percent of renters paid between \$1,000 and \$1,499 per month.

⁹ According to the United States Census Bureau Glossary, "Selected monthly owner costs are calculated from the sum of payment for mortgages, real estate taxes, various insurances, utilities, fuels, mobile home costs, and condominium fees. Listing the items separately improves accuracy and provides additional detail."

Table 13. Selected Monthly Owner Costs (SMOC), 2020

SMOC	Count (Newton)	%	Count (Sussex County)	%	Count (State)	%
Housing units with a mortgage	1,455	100%	32,078	100%	1,382,654	100%
Less than \$500	0	0.0%	38	0.1%	2,772	0.2%
\$500 to \$999	46	3.2%	691	2.2%	34,504	2.5%
\$1,000 to \$1,499	331	22.7%	4,195	13.1%	138,116	10.0%
\$1,500 to \$1,999	318	21.9%	7,702	24.0%	253,824	18.4%
\$2,000 to \$2,499	305	21.0%	7,236	22.6%	275,392	19.9%
\$2,500 to \$2,999	283	19.5%	5,269	16.4%	231,946	16.8%
\$3,000 or more	172	11.8%	6,947	21.7%	446,100	32.3%
Median	\$2,053		\$2,236		\$2,476	
Housing units without a mortgage	456	100%	13,210	100%	711,773	100%
Less than \$250	0	0.0%	257	1.9%	14,747	2.1%
\$250 to \$399	0	0.0%	253	1.9%	18,836	2.6%
\$400 to \$599	14	3.1%	1,012	7.7%	48,655	6.8%
\$600 to \$799	108	23.7%	2,698	20.4%	96,262	13.5%
\$800 to \$999	142	31.1%	3,207	24.3%	136,283	19.1%
\$1,000 or more	192	42.1%	5,783	43.8%	396,990	55.8%
Median	\$955		\$950		\$1,062	

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

Value

The ACS reported a median value of owner-occupied housing units as \$226,900 (Table 14) in 2020. Nearly three-quarters (71.5%) of the owner-occupied units in the Town had a value of between \$100,000 to \$299,999. The County had a median value of owner-occupied housing units of \$271,500 and New Jersey had a median value of \$343,500. The median value of owner-occupied housing units is significantly less in Newton compared to Sussex County and New Jersey.

Table 14. Value of Occupied Units, 2020

Value of Occupied Units	Count	%
Owner-occupied units	1,911	100%
Less than \$50,000	36	2.5%
\$50,000 to \$99,000	0	0.0%
\$100,000 to \$299,999	1,040	71.5%
\$300,000 to \$499,999	379	26.0%
\$500,000 to \$749,999	0	0.0%
\$750,000 to \$999,999	0	0.0%
\$1,000,000 or more	0	0.0%
Median	\$226,900	

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

3.3 Housing Units Capable of Being Rehabilitated

The ACS estimated that in 2020, there were 59 (1.7%) occupied housing units that lacked complete kitchen facilities and 53 (1.5%) units with no telephone service available in Newton. Compared to the Town, the County had less occupied housing units that lacked complete plumbing and kitchen facilities; 0.1 percent and 0.3 percent respectively.

Table 15. Housing In Need of Rehabilitation, 2020

Facilities	Count	%
Newton		
Occupied housing units	3,459	100%
Lacking complete plumbing facilities	0	0.0%
Lacking complete kitchen facilities	59	1.7%
No telephone service available	53	1.5%
Sussex County		
Occupied housing units	54,166	100%
Lacking complete plumbing facilities	60	0.1%
Lacking complete kitchen facilities	174	0.3%
No telephone service available	523	1.0%

SOURCE: UNITED STATES CENSUS BUREAU, 2020 AMERICAN COMMUNITY SURVEY, 5-YEAR ESTIMATES.

3.4 Projection of Housing Stock

Housing Units Certified

Since 2004, there have been 249 housing units that have received certificates of occupancy, according to the New Jersey Department of Community Affairs (DCA) Construction Reporter. Of these certifications, 13.3 percent were issued for 1- and 2-family homes, and 86.7 percent were issued to units in multi-family developments.

Planning Board Approvals

The Town of Newton Planning Board approved several residential projects in 2023 and 2024 that may not yet be reflected in the DCA's certificate of occupancy reporting as follows:

1. 122-124 Main Street
Block 7.09, Lots 3 and 5
Zone T-4

Proposed construction of four (4) apartments to existing apartment buildings to the existing buildings.

Approved June 21, 2023.

2. 59-61 High Street
Block 5.01, Lot 24
Zone T-6

Convert the existing mixed-use building into nine (9) residential apartments.

Approved January 17, 2024.

3. 113 Main Street
Block 14.01, Lot 5
Zone T-5 and Historic Overlay

Convert the existing structure into four (4) residential apartments with minor site improvements.

Approved February 21, 2024.

4. 43 Trinity Street
Block 9.06, Lot 12
Zone T-5

Convert the existing mixed-use building into three (3) residential apartments.

Approved March 20, 2024.

5. 200 Spring Street
Block 8.09, Lot 8
Zone T-6

Table 16. Housing Units Certified, 2004 - 2024

	1&2 Family	Multi	Mixed-use	Total
2004	17	0	0	17
2005	1	0	0	1
2006	0	0	0	0
2007	0	0	0	0
2008	0	0	0	0
2009	0	0	0	0
2010	0	0	0	0
2011	0	45	0	45
2012	0	0	0	0
2013	0	0	0	0
2014	0	0	0	0
2015	0	45	0	45
2016	0	0	0	0
2017	7	0	0	7
2018	6	65	0	71
2019	1	0	0	1
2020	1	0	0	1
2021	0	0	0	0
2022	0	0	0	0
2023	0	61	0	61
Oct. 2024 YTD	0	0	0	0
Total	33	216	0	249

SOURCE: NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, HOUSING UNITS CERTIFIED, 2004 - 2024

Proposed addition and alterations for a mixed-use building consisting of five (5) floors with a roof-top restaurant.

Approved March 20, 2024.

6. 85.5 Trinity Street
Block 15.01, Lot 18
Zone T-5

Convert the existing group home facility into six (6) residential apartments.

Approved June 26, 2024.

Lands Available for New Construction and Redevelopment

The potential for large-scale new development in the Town is restricted by a lack of developable land due to most of the Town already being built out. Therefore, due to Newton's largely built out nature, Town efforts should be focused on identifying key opportunities for Redevelopment Area Designations.

The municipality should also continue to support the rehabilitation of the existing housing stock for affordable housing opportunities by continuing its participation in using Community Block Grants and other funding sources to achieve this.

Looking at historic trends combined with the limited availability of developable land in the Town, it is unlikely that there will be any large increases in the number of new housing units within the Town, and most new housing units will be created under Redevelopment Area Designations and the redevelopment of existing sites.

Residential Zones

The development of future housing stock is influenced by many factors, including availability of necessary infrastructure, such as sewer and water, zoning regulations, and environmental resource constraints.

The 2001 New Jersey SDRP identifies Newton as Planning Area 4B, the Rural/Environmental Sensitive Planning Area; Planning Area 5, the Environmentally Sensitive Planning Area; as well as a Designated Regional Center. At the time this Housing Element was written, the Town contains a total of 282.08 acres of open space and recreational lands. Approximately three percent (3%) of these lands in the Town are owned and operated by Sussex County. The largest State-owned recreational facility is the Paulinskill River Wildlife Management Area, which is located in the northeasterly portion of the Town and encompasses approximately 110.16 acres. Municipally-owned environmental recreation and conservation lands as well as recreational facilities comprise an approximate 25.9% of all open space. Due to the extensive built-out nature in the Town, new construction is constrained.

T-2 Rural Residential Transect Zone

The T-2 Transect Zone covers large tracts of land that are undeveloped which are located in the outskirts of Town and should be preserved from intensive development and kept as areas which are open and rural to nature. This area is recommended for farmland or other agricultural uses, open space, very large lot development or rural/hamlet cluster development. The recommended density in this transect zone is one (1) unit per 10 acres. Rural cluster/hamlet subdivisions can be created at a density of one (1) unit per two (2) acres on a

maximum lot area of one-quarter (1/4) acre. Access should be developed at rural standards and the remaining land not utilized for lots or access must be placed into conservation or farmland easements. Permitted residential principal uses include single-family detached dwellings while group care (elder-care, extended care, special care) and residential cluster development are permitted conditional uses within the T-2 Transect Zone.

T-3 Neighborhood Residential Transect Zone

The T-3 Transect Zone covers the majority of the single-family residential areas that span outward from the downtown and neighborhood center areas. Permitted residential principal uses include single-family detached dwellings and duplexes while group care (elder-care, extended care, special care) and residential cluster development are permitted conditional uses within the T-3 Transect Zone.

T-4 Neighborhood Services Transect Zone

The T-4 Transect Zone covers smaller mixed-use neighborhood centers and supports larger neighborhood centers that provide local services to neighborhoods. These small neighborhood mixed use commercial areas provide a sense of place and identity to the neighborhood which surrounds it. Permitted residential principal uses consist of single-family detached dwellings, duplexes, age-restricted housing, residential over commercial, flats or lofts (elevator fed), group care (elder-care, extended care, special care), and live-work¹⁰ development.

T-5 Town Core Support Area / Neighborhood Core Transect Zone

The T-5 Transect Zone occupies the area surrounding the Town Core than provides the majority of the housing and employment that directly supports the Town Core. Additionally, the T-5 Transect Zone provides for Neighborhood Cores to serve some of the neighborhoods which are closer to the Town Core area. The permitted residential principal permitted uses involve single-family detached dwellings, duplexes, age-restricted housing, residential over commercial, flats or lofts (elevator fed), group care (elder-care, extended care, special care), and live-work development.

T-6 Town Core Transect Zone

The T-6 Transect Zone is a higher density, mixed and multiple use downtown area. This area provides for the majority of retail and commercial uses within the Town and should be identified as the Central Business District within Newton. This area has residential and office uses over the commercial uses to support day and evening uses in the downtown. Permitted residential principal uses include residential over commercial, flats or lofts (elevator fed), and group care (elder-care, extended care, special care) development.

SD-2 Special District 2: College District

The SD-2 District covers the Sussex County Community College Campus. The permitted residential principal uses include multi-family residential and elevator flat development.

¹⁰ In reference to Town of Newton Form-Based Code, §320-3 defines "Live-Work" as a hybrid commercial/residential building that may be new construction or a conversion of an existing home into a combination ground-floor business and upper-floor single-family dwelling unit.

SD-3 Special District 3: Retail/Manufacturing District

The SD-3 District covers the area along U.S. Route 206 at its intersection with North and South Park Drive. This area includes existing large-scale retail and industrial uses. The area has potential to accept relocated light manufacturing and industrial uses which currently exist in redevelopment areas. Of the permitted residential principal uses, only live/work development is allowed.

SD-5 Special District 5: Office/Manufacturing District

The SD-5 District covers the 56 Sparta Avenue redevelopment area, where office and manufacturing uses are being considered along with alternative plans proposing housing and mixed-use options. A redevelopment plan will ultimately determine which mix of uses is most appropriate. Of the permitted residential principal uses, mixed-use buildings are permitted within the district.

SD-7 Special District 7: Senior Community District

The SD-7 District covers the Bristol Glen/United Methodist Homes Continuing Care and Assisted Living Facility. Residential uses such as duplexes, triplexes, multi-family dwellings, elevator flats, and townhouse development are permitted principal uses within the SD-7 District.

SD-9 Special District 9: Planned Neighborhood Development District

The SD-9 District covers approximately 52 acres along High Street at the western edge of Town. Development in this zone includes a mandatory 20% set-aside for affordable housing. Mixed-use is permitted along High Street and adjacent to the Newton Medical Center to provide retail and services to the neighborhood. The remainder of the development is permitted to be residential and should vary in density from higher density closer to High Street to lower density further from the road frontage. A minimum of three (3) buildings are required for any development. Residential uses such as single-family, townhouse, multi-family residential and elevator flats, duplexes, triplexes, mixed-use buildings, and live-work developments are permitted principal uses in the SD-9 District.

Multigenerational Housing

P.L. 2021, c. 273 established the Multigenerational Family Housing Continuity Commission (the Commission) and assigned the Commission the responsibility of preparing and adopting, "...recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas" (N.J.S.A. 52:27D-329.20f[1]). Municipalities are now required to provide an analysis of the extent to which local ordinances advance or detract from these recommendations. At the time this Housing Element and Fair Share Plan is being prepared, no such recommendations have been published by the Commission; however, all residential zones within the Town of Newton permit accessory apartments, providing an option for creating multi-generational housing.

4. Fair Share Plan

4.1 Plan Purpose and Goal

The Fair Share Plan will describe specific projects, programs, strategies and funding sources to meet the Town's affordable housing obligation while also complying with the Fourth Round Regulations, Fair Housing Act, and the Dispute Resolution Program Directive #14-24. The overriding goal of this Fair Share Plan is to present a framework for the Town to provide for its fair share of the present and prospective regional need for low- and moderate-income housing for the Fourth Round period of 2025 through 2035.

4.2 Determination of Housing Need & Proposed Mechanisms

On March 20, 2024, Governor Murphy signed into law Bill A4/S50 (P.L. 2024, c.2), which set forth the rules and regulations governing the Fourth Round (2025-2035) of affordable housing obligations in New Jersey. This law abolished COAH and shifted implementation of the Fair Housing Act to the New Jersey Department of Community Affairs (DCA), creating the Affordable Housing Dispute Resolution Program (the Program).

On October 18, 2024, the Department of Community Affairs ("DCA") prepared and submitted a non-binding report ("DCA Report")¹¹ on the Fourth Round affordable housing fair share obligations for all municipalities within the State of New Jersey. The DCA indicated that Newton's Fourth Round Present Need/Rehabilitation Obligation is 45 units and the Prospective Need is 72 units. The FHA, as amended by P.L. 2024, c.2, ("Amended FHA") explicitly stated the DCA's numbers are non-binding.

On January 27, 2025, pursuant to P.L.2024, c.2, the Town Council adopted Resolution #73-2025, committing to its fair share obligation for the Fourth Round (2025-2035) of a present need of obligation of 45 units and prospective need obligation of 72 units. The Town Council filed a Declaratory Judgment action in Superior Court, Docket No. SSX-L-000062-25 on January 28, 2025 in order to meet the January 31, 2025 deadline to file with the Dispute Resolution Program.

Given that there were no challenges by interested parties to the adopted number, the Town of Newton's Fourth Round obligation was established by default on March 1, 2025.

Prior Round Obligation

Newton petitioned for, and received, Substantive Certification from COAH for Rounds 1 and 2 on November 1, 2000. The Town fully addressed its Prior Round obligation of 24 units through prior cycle and post-1986 credits. Newton claimed seven (7) prior cycle credits for the development of a group home for developmentally disabled adults in 1981, partnering with the Sussex County ARC (SCARC, Inc.). Newton addressed the remaining 17-unit obligation through three (3) additional rental projects: the Birth Haven Group Home (6 units), Bristol Glen Assisted Living Facility (1 unit) and the Merrian Gateway Inclusionary Project (6 units + 4 credits).

¹¹ NJ DCA, Affordable Housing Obligations for 2025-2035 (Fourth Round): Methodology and Background, October 2024.

Table 17. Prior Round Obligation and Credits

Project Name	Year	Type	Units	Bonuses	Total
Prior Cycle Credits					
Sussex County ARC Group Homes	1981	Special Needs rental	7	0	7
Post-1986 Credits					
Birth Haven Group Home	1995	Special needs rental	6	0	6
Bristol Glen Assisted Living Facility	2001	Age-restricted rental	1	0	1
Merriam Gateway Inclusionary Project	1997	Rental	6	4	10
Total			20	4	24

Third Round Obligation (1999-2025)

COAH's third round methodology for determining a municipality's fair share obligation was invalidated by the Courts, leading to delays and uncertainty regarding affordable housing requirements and the number of affordable housing units the Town is required to provide. Therefore, in order to determine its share of the regional present and prospective need for affordable housing, Newton utilized the methodology provided in the 2015 Kinsey Report from the Fair Share Housing Center. This report established a present need of 72 units and a Third Round prospective need of 83 units.

A Declaratory Judgement was granted by Superior Court by Order on May 27, 2016, finding that the Town of Newton was in compliance with its constitutional obligations for affordable housing and provided a realistic opportunity for low- and moderate-income housing. The Superior Court of New Jersey Law Division, Sussex County, approved the Town of Newton's draft Housing Element and Fair Share Plan, dated December 2015, which was later adopted in September 2016. The Town was granted immunity from builder's remedy litigation and exclusionary zoning challenges for a period of 10 years through July 2025. The Town's 2016 Housing Element and Fair Share Plan included proposals to meet 217 credits. The table below reviews the Third Round proposals to address affordable housing obligations; however, the credits are being refined to apply the requisite credits to the Third Round obligation and move the remaining proposals and credits to the Fourth Round.

Table 18. Third Round Credits

Summary of Third Round Fair Share Plan Town of Newton, Sussex County				
Project Name	Type	Units	Bonuses	Total Credits
Third Round Completed Units				
Bristol Glen Assisted Living	Senior Rental	5	0	5
Progressive Health Residential Health Care	Supportive/Special Needs Rental	4	0	4
Samaritan Inn (very low income)	Transitional Family Units	14	14	28
Katie's House Supportive Housing	One 2-Bedroom Group Home One 3-bedroom Group Home	5	0	5
Community Options Group Home	One 4-Bedroom Group Home	4	1	5
Newton Town Centre	Senior Rental	65*		15
Clayton Square	Family Rental	6	6	12
Total Completed		102	21	74
Inclusionary Zoning				
SD-9	Family Rental	17*	0	9
	Family For-Sale	54*		
Total Inclusionary		71*	0	
Third Round Fair Share Plan Total				83
Third Round Obligation				83
Maximum Bonus – 25% (21 units)				
Maximum Senior – 25% (20 units)				20
Minimum Family Housing – 50% (42 units)				45
Minimum Rental – 25% (21 units)				83
Minimum Family Rental – 50% of Rental (11 units)				45
*Excess credits not applied carry over to Round 4 – 50 senior rentals and 62 inclusionary				112
Rehabilitation				
Municipal Rehabilitation Program	Completed Rehabilitations	21	0	21
Third Round Rehabilitation/Present Need Total				21

Assisted Living, Transitional Housing, Alternative Living Arrangements and Group Homes

The Town of Newton completed several projects during the Round 3 period that qualify as transitional housing, assisted living, alternative living arrangements and group homes.

- **Bristol Glen Assisted Living** completed **five (5)** units of affordable, senior rental as part of an expansion at their facility located at **200 Bristol Glen Drive (Block 11.01, Lot 4)**. This facility is a continuing care retirement community (CCRC) licensed by the New Jersey Department of Health and Senior Services. These five (5) units are age-restricted, rental units deed-restricted to serve low-income individuals or residents receiving a Medicaid waiver.
- **Progressive Health** established **four (4)** units of special needs/supportive housing for brain-injured adults as part of a new Residential Health Care facility.
- **Samaritan Inn** completed **14 units** of affordable housing in two transitional homes for very low-income homeless families. The first home is located at **21 Union Place (Block 15.01, Lot 47)** and has 5 units. The second building is located at **7-9 Sussex Street (Block 22.03, Lot 9)** and has 6 units. A third building is at 23 Union Place, with three apartments. These three buildings qualify as transitional housing, providing transitional housing for homeless families.
- **Katie's House** established two group homes: one (1) at 29 Moran Street, Block 9.02, Lot 6 with two (2) bedrooms and one (1) at 26 Mason Avenue, Block 18.04, Lot 23 with three (3) bedrooms.

Municipally Sponsored/100 Percent Affordable

A municipality may elect to provide low- and moderate-income units through a municipally sponsored 100 percent affordable construction program. Newton partnered with Newton Town Centre Urban Renewal Associates, L.P. and RPM for the development of a mixed-use building at the corner of Spring Street and Union Place (Block 8.05, Lots 4, 7, 8 and 9) in Newton's historic downtown area.

This development contains 65 age-restricted rental units for low- and moderate-income seniors, approximately 1,600 square feet of commercial space, and a community room to be utilized by residents of the development and available for use by senior groups within the Town. These 65 affordable units will apply only 15 credits to the Town's Third Round fair share obligation due to the cap on affordable housing units provided through age-restricted developments.¹² The remaining 50 units carryover to Rounds 4 and 5.

On June 10, 2013, the Newton Town Council authorized a PILOT agreement with the developers of this site via Ordinance #2013-20. The Newton Planning Board adopted a resolution, memorialized on January 21, 2015, granting final site plan approval, and on May 11, 2015, the Town Council adopted a resolution (#73-2015) to appropriate \$50,000 from the Affordable

¹² Newton's Fair Share Obligation is 83 units. Of these, no more than 25 percent, or 20 units can be age-restricted. The Bristol Glen expansion is also age-restricted and created six (6) credits of affordable housing, five (5) applied to the Third Round. Therefore, Newton Town Centre can account for only 15 units of the Town's Third Round affordable housing obligation.

Housing Trust Fund for the development. Additionally, the Town provided the land for the development through a long-term lease with the developer.

Clayton Square

The Town of Newton worked with Martorana Enterprises to support construction of 54 townhouses and six (6) affordable family rental units on the property at 104 Sparta Avenue (Block 22.05, Lot 13.01). Newton's Planning Board (acting as the Zoning Board of Adjustment) approved a use variance on the property in May 2012 to allow residential use in an otherwise industrial zone. The development is completed and fully occupied. The six (6) affordable units created on-site provided 12 units of family rental credits.

Inclusionary Zoning – SD-9 District

The SD-9 zone is a 52-acre site along both sides of High Street at the western edge of Town that is zoned for 6 du/acre for 85% of the zone and 12 du/acre for 15% of the zone. The zone permits a variety of residential housing types including multi-family and townhouses as well as mixed-use buildings. The Town's 2008 Master Plan recommended increasing the allowed density and set-aside requirements in this District to encourage affordable housing on Lots 1 and 1.06, Block 101 and Lot 1, Block 102. The zoning on this site provides for a total of 354 units. A 20 percent set aside nets 71 affordable units. Of those 71 affordable units, 17 units would meet the density required to provide for the realistic opportunity for family rental units and the remaining 54 units would be family for-sale units. A total of nine (9) credits are proposed to apply to the Third Round. The remaining units are proposed for the Fourth Round.

Fourth Round Obligation (2025-2035)

On January 27, 2025, pursuant to P.L.2024, c.2, the Town Council adopted Resolution #73-2025, committing to its fair share obligation for the Fourth Round (2025-2035) of a present need of obligation of **45 units** and prospective need obligation of **72 units**. Given that there were no challenges by interested parties to the adopted number, the Town of Newton's Fourth Round obligation was established by default on March 1, 2025.

Table 19. Fourth Round Credits

Summary of Fourth Round Fair Share Plan Town of Newton, Sussex County				
Project Name	Type	Units	Bonuses	Total Credits
Fourth Round				
Redevelopment Plans				
Paterson Avenue	Family Rental	14	7*	21
Hicks Avenue	Family Rental	7	3*	10
Merriam Gateway	Family Rental	9	4*	13*
Total Redevelopment		30	0	44
Inclusionary Zoning				
SD-9	Family Rental	17*	0	8
	Family For-Sale	54*		54
Total Inclusionary		71*	0	62
100% Affordable				
Newton Town Centre	Senior Rental	50*		20
Total 100% Affordable		50*	0	20
Group Homes				
CCI Foundation Inc**	Group Home	4	4*	8
Total Group Homes		4	4	8
Fourth Round Fair Share Plan Total				134
Fourth Round Obligation				72
Maximum Senior – 30% (20 units)				20
Minimum Family Housing – 50% (36 units)				93
Minimum Rental – 25% (18 units)				59
Minimum Family Rental – 50% of Rental (9 units)				39
Maximum Bonus Credits – 25% (18 units)				18
*9 units applied to 3 rd Round from SD-9 / 15 units applied to 3 rd Round for NTC and 30 carry over				
Carryover to 5th Round – 30 units senior and 62 inclusionary units				92
Rehabilitation				
Municipal Rehabilitation Program	Proposed Rehabilitations	45	0	45
Fourth Round Rehabilitation/Present Need Total				45

*Bonus credits applied include 0.5 bonus credit per unit for redevelopment and 1 bonus credit per unit for group homes.

**Group home is completed.

Inclusionary Zoning – SD-9 District

The SD-9 zone is a 52-acre site along High Street at the western edge of Town that is zoned for 12 du/acre for 85% of the zone and 6 du/acre for 15% of the zone. The zone permits a variety of residential housing types including multi-family and townhouses as well as mixed-use buildings. The Town's 2008 Master Plan recommended increasing the allowed density and set-aside requirements in this District to encourage affordable housing on Lots 1 and 1.06, Block 101 and Lot 1, Block 102. The zoning on this site provides for a total of 354 units. A 20 percent set aside nets 71 affordable units. A concept plan showing the potential to develop 354 units on the site is attached to this plan following the SD-9 ordinance. Of those 71 affordable units, 17 units would meet the density required to provide for the realistic opportunity for family rental units and the remaining 54 units would be family for-sale units. A total of 63 credits are proposed to apply to the Town's Fourth Round obligation.

Table 20. SD-9 Site Suitability Analysis

Site Suitability Criteria	Complies? (Y/N)	Notes
Clear title/free of encumbrances	Y	Private ownership; clear title
Compatibility with Surrounding Land Uses	Y	Surrounded by a hospital, medical offices and residential uses
Approvable as a residential development by all agencies with jurisdiction	Y	Limited slopes, wetlands and environmental constraints
Available Infrastructure – water, sewer, utilities, roads	Y	Located on NJSH Route 94; available public water and sewer

Redevelopment Areas

Newton has declared several parts of Town as areas in need of redevelopment. Three (3) of these areas, known as Paterson Avenue, Hicks Avenue and Merriam Gateway, have redevelopment plans adopted by the Town Council that include a residential component with an affordable housing set-aside. Affordable units in the redevelopment zones may not be age-restricted and must be provided as 50 percent for low income and 50 percent for moderate income. The Redevelopment Plans represent additional credits above the Town's obligation for the Fourth Round that may occur as redevelopment.

Paterson Avenue Redevelopment Area

The Paterson Avenue Redevelopment Area is a 12.57-acre parcel located at Block 1201.02, Lots 2 and 2.01. The Redevelopment Plan calls for the construction of 71 dwellings units on this existing light industrial site, of which 14 units must be affordable. The Newton Town Council designated the tract as an Area in Need of Redevelopment on December 10, 2007 and adopted a Redevelopment Plan on October 8, 2008. An amendment was adopted in July 20, 2011 to expand permitted uses on the site.

Table 21. Paterson Ave. Site Suitability Analysis

Site Suitability Criteria	Complies? (Y/N)	Notes
Clear title/free of encumbrances	Y	Private ownership; clear title
Compatibility with Surrounding Land Uses	Y	Surrounded by residential uses
Approvable as a residential development by all agencies with jurisdiction	Y	Limited slopes, no environmental constraints
Available Infrastructure – water, sewer, utilities, roads	Y	Located on Paterson Ave. Sewer and water available

Hicks Avenue Redevelopment Area

The Hicks Avenue Redevelopment Area is a 13-acre site located at Block 1309, Lots 1, 1.01, 2, 6, 8, 9, 41 and 42. The Redevelopment Plan calls for a set-aside of seven (7) affordable units. The Newton Town Council designated the tract as an Area in Need of Redevelopment on December 10, 2007, and adopted a Redevelopment Plan on December 22, 2008. An amendment to the Redevelopment Plan was adopted in July 2014.

Table 22. Hicks Ave. Site Suitability Analysis

Site Suitability Criteria	Complies? (Y/N)	Notes
Clear title/free of encumbrances	Y	Private ownership; clear title
Compatibility with Surrounding Land Uses	Y	Surrounded by residential uses
Approvable as a residential development by all agencies with jurisdiction	Y	Limited slopes, some wetlands and environmental constraints
Available Infrastructure – water, sewer, utilities, roads	Y	Located on Sparta Ave/Hicks Ave. Sewer and water available

Merriam Gateway Redevelopment Area

The Merriam Gateway Redevelopment Area is a 2.0-acre site located directly across Diller Avenue from the Historic Merriam Gateway apartments on Block 130, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14. The Town prepared a Redevelopment Plan for this site that includes 45 apartments and 17,494 square feet of commercial space. The site will generate nine (9) affordable family rental units. The Town adopted this Redevelopment Plan on October 1, 2010 and adopted amendments on August 15, 2012 to enlarge the Redevelopment Area and again on February 9, 2015 to increase the variety of permitted building types and uses.

Table 23. Merriam Gateway Site Suitability Analysis

Site Suitability Criteria	Complies? (Y/N)	Notes
Clear title/free of encumbrances	Y	Private ownership; clear title
Compatibility with Surrounding Land Uses	Y	Surrounded by residential and commercial uses
Approvable as a residential development by all agencies with jurisdiction	Y	Limited slopes, no environmental constraints
Available Infrastructure – water, sewer, utilities, roads	Y	Located on Sparta Ave. Sewer and water available

Municipally Sponsored/100 Percent Affordable

A municipality may elect to provide low- and moderate-income units through a municipally sponsored 100 percent affordable construction program. Newton partnered with Newton Town Centre Urban Renewal Associates, L.P. and RPM for the development of a mixed-use building at the corner of Spring Street and Union Place (Block 8.05, Lots 4, 7, 8 and 9) in Newton's historic downtown area.

This development contains 65 age-restricted rental units for low- and moderate-income seniors, approximately 1,600 square feet of commercial space, and a community room to be utilized by residents of the development and available for use by senior groups within the Town. These 65 affordable units will apply only 15 credits to the Town's Third Round fair share obligation due to the cap on affordable housing units provided through age-restricted developments.¹³ Of the remaining 50 units, 20 apply to the Fourth Round and 30 carry over to future rounds.

On June 10, 2013, the Newton Town Council authorized a PILOT agreement with the developers of this site via Ordinance #2013-20. The Newton Planning Board adopted a resolution, memorialized on January 21, 2015, granting final site plan approval, and on May 11, 2015, the Town Council adopted a resolution (#73-2015) to appropriate \$50,000 from the Affordable Housing Trust Fund for the development. Additionally, the Town provided the land for the development through a long-term lease with the developer. The project is completed and fully leased.

¹³ Newton's Fair Share Obligation is 83 units. Of these, no more than 25 percent, or 20 units can be age-restricted. The Bristol Glen expansion is also age-restricted and created six (6) credits of affordable housing, five (5) applied to the Third Round. Therefore, Newton Town Centre can account for only 15 units of the Town's Third Round affordable housing obligation.

CCI Group Home

The Town of Newton provide funding assistance for the construction of a 4-bedroom group home located on Madison Street, at Block 14.03, Lot 11.01. The group home was completed in 2020.

Rehabilitation Program

The Town of Newton proposes to address its rehabilitation obligation of 45 units through a combination of a municipal rehabilitation program. According to N.J.A.C. 5:93-5.2, the purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety code violations that require the repair or replacement of a major system, including weatherization, a roof, plumbing, heating, electricity, sanitary plumbing (including septic systems) and/or a load bearing structural system. Upon rehabilitation, housing deficiencies must be corrected and the house must be brought up to code standard.

Newton has a municipal rehabilitation program in place that initially utilized a Small Cities Grant to fund the rehabilitation of 20 housing units. Those 20 rehabilitation units were completed and the grant was closed. The Town retained a revolving loan fund to provide for additional rehabilitation as loans are paid back into the fund.

Newton plans to rehabilitate additional housing units utilizing this revolving loan fund and other funding sources, such as the Town's Affordable Housing Trust Fund, over the Fourth Round period.

Appendix A – Resolutions

ADDITIONAL TO BE PROVIDED



TOWN OF NEWTON

RESOLUTION #180-2024

June 24, 2024

"Authorize an Agreement with CGP&H, LLC for Administrative Agent Services Related to Affordable Housing Requirements for July 1, 2024 Through June 30, 2025"

WHEREAS, the Town of Newton anticipates the need for an Administrative Agent to advise on affordable housing requirements for new developments within the Town of Newton; and

WHEREAS, CGP&H, LLC has submitted a proposal for continued Administrative Agent services, which is acceptable to the Newton Governing Body; and

WHEREAS, the anticipated term of this contract is one (1) year, July 1, 2024 through June 30, 2025; and

WHEREAS, the Chief Financial Officer hereby certifies funds in the 2024 budget, NOT TO EXCEED \$10,300.00 will be encumbered as follows:

RESERVE FOR COMMERCIAL DEVELOPMENT

#35-297-56-001

"The maximum dollar value is based on a reasonable estimate of the goods or services required over the contract term, and the Town of Newton is not obligated to spend that amount."

NOW, THEREFORE BE IT RESOLVED, the Town Council of the Town of Newton hereby authorizes the execution of an agreement with CGP&H, LLC, for Administrative Agent services outlined in the proposal submitted by CGP&H, LLC.

CERTIFICATION

THIS IS TO CERTIFY the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, June 24, 2024.

Teresa A. Oswin

**Teresa A. Oswin, RMC
Municipal Clerk**

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT by and between the Town of Newton (hereinafter referred to as "Town"), a Municipal Corporation of the State of New Jersey and CGP&H LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512 (hereinafter referred to as "CGP&H"); and

WHEREAS, both the Town and CGP&H desire to set forth the various duties, terms and responsibilities of the parties hereto;

WHEREAS, the Town Council hereby desires to approve of this Contract that was presented for the provision of said services.

WITNESSETH, that the parties hereto, for and in consideration of the mutual agreements herein contained, promise and agree as follows:

1. The term of the Agreement shall become effective as of the 1st day of July, 2024 for a period of twelve (12) months terminating at the close of business on the 30th day of June, 2025. The Agreement may be terminated by either party, by giving one (1) month advanced written notice to the other.
2. CGP&H shall furnish all equipment and materials and shall perform the services set forth in Schedule A, Scope of Services and Compensation. Compensation will be provided as in this Agreement and as awarded in accordance with Compensation Schedule in strict accordance with the contract as the word "contract" is hereinafter defined and in accordance with all other terms and provisions.
3. The "contract" shall consist of the following:
 - a. This Agreement and all Schedules annexed thereto.
 - b. Resolution of appointment made by the Mayor and Town Council.
 - c. All other terms required by law to be inserted in this contract, whether actually inserted or not.
 - d. The Affirmative Action Requirements annexed hereto, applicable to this

contract, as Schedule B.

4. CGP&H hereby represents to the Town that CGP&H is qualified to fulfill the position set forth herein with applicable requirements. CGP&H further represents that CGP&H is familiar with all applicable statutes, laws, regulations, procedures and requirements in connection with this appointment.
5. CGP&H hereby agrees to perform the services set forth under the Scope of Services and Compensation, Schedule A, for the Town of Newton during the period set forth herein above.
6. CGP&H shall not assign this contract or any of its rights or monies due hereunder without the previous written consent of the Town of Newton as evidenced by a duly adopted Resolution.
7. CGP&H represents that they currently have professional liability insurance in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, and that they shall supply a certificate to the Town showing said coverage. CGP&H further covenants and agrees to protect, keep and hold the Town of Newton harmless against any and all actions, claims or demands for damages, which may be caused by the negligent error, act or omission of CGP&H or by the improper performance of the contract.
8. Payment to CGP&H shall be made in strict accordance with the terms of this contract. It is understood and agreed that in the event CGP&H is required to perform services that are not contemplated and are not within the subject matter of this contract and are extraordinary and are of a kind which would not ordinarily be performed in the normal course of providing services, that CGP&H shall be paid additional sums of money based upon change orders duly approved by Resolution of the Town of Newton Council.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the covenants, conditions and agreements herein contained are binding of the parties hereto, their successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties hereto have caused their presents to be signed by the respective authorized officers and the proper corporate and/or municipal seals affixed hereto, the date and year first written above.

WITNESS:

TOWN OF NEWTON

BY: [Signature]
 NAME: Teresa A. Oswin
 TITLE: Municipal Clerk

BY: [Signature]
 NAME: JOHN PAUL CAULZ
 TITLE: MAYOR
 DATE: 6-24-2024

WITNESS:
[Signature]
 NAME: Stephanie Rubin

CGP&H, LLC
[Signature]
 NAME: John Burton, MPA

TITLE: Office Operations Coordinator

TITLE: Chief Operating Officer

DATE: 6/26/2024

SCHEDULE A: SCOPE OF SERVICES AND COMPENSATION

CGP&H will provide municipality with professional services for the purposes described in this proposal. CGP&H will only bill for services performed, and therefore, the actual amount billed may be considerably less than the budgets presented below depending on the breadth of services requested by municipality.

SUMMARY OF ALL FEES	
ADMINISTRATIVE AGENT GENERAL SERVICES	\$10,300
TOTAL CONTRACT NOT-TO-EXCEED	\$10,300

The fee tables on the following pages delineate the fee structure for each fee category above. CGP&H may invoice above an individual fee category budget amount or individual fee line item budget amount without additional authorization, however CGP&H will not perform professional services or bill for services that would exceed the total contract not-to-exceed amount without prior authorization from the municipality. While \$10,000 is CGP&H's minimum not-to-exceed for our smaller projects, we do not necessarily anticipate that we will reach the not-to-exceed amount.

See the following pages for a detailed breakdown of all fees.

ADMINISTRATIVE AGENT GENERAL SERVICES paid by Municipality	
1. Municipal Services	Not-to-exceed \$10,000 billed hourly at a rate of \$165 per hour for senior staff which include planners and department supervisors
2. Applicant Services	Monthly flat fee of \$0 per month for a total of \$0 per year. <i>This line item is not anticipated to be required and therefore will not be implemented without additional written authorization and change order.</i>
3. Administrative Agent Resale Fee	\$2,000 flat fee payable by Municipality for each sale unit when home gets listed for sale. <i>A fee of 3% of the resale price will be paid from the seller at the closing to CGP&H.</i>
4. Subordination Requests	\$175 flat fee to process refinancing requests. This fee is paid by the homeowner.
5. Direct Costs	Reimbursement for expenses. Not to exceed \$300 per contract year.
TOTAL PAID BY MUNICIPALITY	Not-to-exceed \$10,300 including up to 0 units listed for sale.

1. Municipal Services: This may include, but is not limited to:

- Implementing Affirmative Marketing Plan postings and other compliance requirements
- Creation/Updates to the Administrative Agent Operating Manual and Affirmative Marketing Plan, when required
- Distressed Properties follow up activities
- Responding to initial private developer inquiries
- Advising Municipality on affordable housing requirements for new developments
- Foreclosure prevention activities
- CTM entry of trust fund or unit information
- Enforcing affordability controls, including annual mailings to homeowners
- Program setup for Accessory Apartment program
- Program setup for Affordability Assistance Programs
- Trust Fund Monitoring and Unit Monitoring
- Assisting with Spending Plan revisions
- Extension of Controls
- Releasing controls at end of control period
- Calculating annual tax assessments for affordable homeowners
- Midpoint Review
- Group home research to document creditworthiness

If the municipality requires additional services above this line item's budgetary cap, CGP&H will request permission to proceed before invoicing further.

CGP&H will strive to comply with all aspects of S2527 affirmative marketing legislation. However, CGP&H cannot ensure that other administrative agents administering affordable housing units in the Municipality are meeting the regulations until further direction is provided by the State of New Jersey.

2. **Applicant Services:** *This line item is not anticipated to be required and therefore will not be implemented without additional written authorization and change order.*

This may include, but is not limited to:

- Affordable Housing Waitlist Management for existing Sales and Rental units
- Responding to general affordable housing inquiries from pre-applicants, applicants, and existing affordable housing owners
- Unit Administration
- Management of general inquiries
- Responding to existing homeowners' inquiries (intent to sell requests, etc.)
- Processing requests for loan subordinations/approval of equity loans and refinancing
- Answering Affordability Assistance Questions
- Advising on annual increases for Market to Affordable, Accessory Apartment, and other units

3. **Administrative Agent Resale Fee:** This includes but is not limited to:

- Facilitation of the resale of any affordable sales unit that is put up for sale by current owner
- Certifying a buying household(s) as eligible
- Sending potential purchasers to the unit
- Facilitating an agreement between buyer and seller
- Preparing and filing closing documents.

The flat fee that is paid by the Municipality will be billed once a notice of intent to sell is signed by the seller. In the event that the seller cancels the sale during the sale process, and the unit does not go to closing, this flat fee is still applicable and will not be returned or cancelled.

4. **Subordination Requests:** includes the cost of processing mortgage Subordination Requests during the affordability control period.

5. **Direct Costs:** this includes, but is not limited to:

- Reimbursement for direct costs for large scale printing jobs; postage; affirmative marketing mailing, mailings to affordable housing homeowners; poster production; expedited mailings or messenger services, etc.

SCHEDULE B

N.J.S.A. 10-5-31 et seq., (N.J.A.C. 17-27)

MANDATORY AFFIRMATIVE ACTION LANGUAGE

GOODS PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

- a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.
- c. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.** as amended and supplemented from time to time and the American with Disabilities Act.
- e. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C 17:-5.2. or a binding determination of the applicable county employment goals determined by the Division pursuant to N.J.A.C.17:27-5.2.

- f. The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
- g. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal Law and applicable Federal Court decisions.
- h. In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions
- i. The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:
 - Letter of Federal Affirmative Action Plan Approval
 - Certificate of Employee Information Report
 - Employee Information Report Form AA302
- j. The contractor and its subcontractor shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance and EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C.17:27.**

COMPANY CGP&H, LLC

SIGNATURE

TITLE

CHIEF OPERATING OFFICER

DATE

10/26/2024

Certification 41169

CERTIFICATE OF EMPLOYEE INFORMATION REPORT RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of **15-Dec-2021 to 15-Dec-2028**

CGP&H, LLC

1249 SOUTH RIVER ROAD

CRANBURY

NJ 08512



A handwritten signature in black ink, appearing to read "Elizabeth Maher Muoio".

ELIZABETH MAHER MUOIO

State Treasurer

Appendix B – Ordinances

§ 320-29. Affordable housing.**A. Applicability.**

- (1) The inclusionary housing provisions of this chapter apply to all development proposed to be undertaken on inclusionary sites zoned to provide for an affordable housing component.
- (2) In addition to the criteria outlined herein for affordable units, at least 50% of all affordable units in each development shall be affordable to low-income households.

B. Administration. Newton has contracted with the State of New Jersey's Affordable Housing Management Service for administration of affordability controls and other matters related to the marketing, tenancy, sale and monitoring of compliance with various requirements associated with low- and moderate-income housing provisions of this chapter. The Affordable Housing Management Service shall be operational within 90 days for issuance of any certificate of occupancy for a development containing low- and moderate-income housing. Depending on the needs found in Newton, the following services are provided:

- (1) Assisting with marketing of Newton's affordable housing units.
- (2) Establishing a screening process for potential home buyers or tenants based on income eligibility.
- (3) Maintaining eligibility lists.
- (4) Referring eligible home buyers and renters to available units.
- (5) Determining maximum resale prices or rents.
- (6) Establishing procedures to ensure that affordable housing units continue to be occupied by and affordable to low- and moderate-income households for the restricted time frame.
- (7) Providing housing counseling services to potential home buyers.
- (8) Assisting households through settlement procedures.

C. Program fee requirements.

- (1) The Affordable Housing Management Service shall require of applicants seeking final approval for development projects with low- and moderate-income dwelling units an initial registration fee at the time of issuance of a certificate of occupancy.
- (2) Upon resale or rental of such units, a renewal fee shall be assessed, payable at the time of issuance of the certificate of occupancy in the case of a resale, or at the time of execution of a rental agreement in the case of a rental unit.

(a) The following fee schedule is currently in effect:

- [1] Initial contract fee (sales and rentals) per new unit, to be charged to developer: \$300.

- [2] Resale occupancy, to be charged to seller at closing: \$150.
- (b) The fee schedule will be reassessed annually and revised as needed. The resale fee in effect at the time of each sales transaction closing shall prevail at the next resale.
- (3) Rental occupancies will be charged to the property owner/landlord at the rate of 2% of the individual unit's annual rent at the time of vacancy.
 - (a) Monthly rent of \$325 x 12 x 2% = fee of \$78.
 - (b) Monthly rate of \$400 x 12 x 2% = fee of \$96.
- (4) Projects receiving funding from the NJDCA Neighborhood Preservation Balanced Housing Program will be charged internally for initial occupancy. All subsequent resales and rentals will be charged as noted above.
- (5) Initial contract fees for sales and rentals will be billed and collected on signing of the agreement with Newton. Newton shall have an option of paying for its entire unit inventory at the prevailing fee at the time of initial contract or of negotiating an installment plan. If payment is delayed, Newton or the developer will be charged the initial contract fee in effect at the time of payment. Subsequent reoccupancy fees will be billed and collected at the time of sale or lease agreement (rental).

D. Affordability criteria.

- (1) In order to ensure that both low- and moderate-income units are affordable by a range of households within each household size, the average price of low- and moderate-income units within an inclusionary development shall be, as best as is practicable, affordable to households at 57.5% of the median income.
- (2) The following range of affordability for purchased housing shall be required for every 20 low- and moderate-income units:
 - (a) Low:
 - [1] One at 40% to 42.5%.
 - [2] Three at 42.6% to 47.5%.
 - [3] Six at 47.6% to 50%.
 - (b) Moderate:
 - [1] One at 50.1% to 57.5%.
 - [2] One at 57.6% to 64.7%.
 - [3] One at 64.8% to 68.5%.
 - [4] One at 68.6% to 72.5%.
 - [5] Two at 72.6% to 77.5%.

[6] Four at 77.6% to 80%.

- (3) For-sale dwellings. Monthly cost of shelter, to include mortgage (principal and interest), taxes, insurance and homeowner's or condo association fees, shall not exceed 28% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development. Homeowner's or condo association fees for low- and moderate-income units can be increased by an annual percentage not to exceed the CPI housing component only for the region in which the Town of Newton is located.
- (4) For-rental dwellings. Monthly cost of shelter, to include contract rent and utilities (gas, electric, oil, water and sewer), shall not exceed 30% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development.
- (5) For purposes of relating affordability to household size, households of the following size shall be assumed to occupy units of the following size, and sale or rental price shall not be affected regardless of the size of the household actually occupying the unit:

Number of Bedrooms	Number of Occupants
0	1
1	2
2	3
3	5
4	7

E. Residency preference: affirmative marketing area.

- (1) For rehabilitated housing units, eligible persons who reside in the municipality shall have preference over those who do not reside in the municipality.
- (2) For newly constructed units, there shall be an occupancy preference to low- and moderate-income households that reside or work in the Counties of Sussex, Bergen, Hudson and Passaic.
- (3) For housing unit resales and rental/rerentals, affirmative marketing area and occupancy preference shall be expanded to include eligible persons who live or work in Essex, Morris, Union and Warren Counties.

F. Distribution and location criteria.

- (1) To the extent reasonably attainable, the low- and moderate-income units shall be situated generally so as not to be in less desirable locations than other units in the development and shall be no less accessible to the common open space and public facilities, if provided, than the other units.

- (2) At a minimum, 35% of the low- and moderate-income units shall be two-bedroom units, 15% shall be three-bedroom units, and no more than 20% may be efficiency units.
- (3) No more than 25% of the Town's total fair share obligation after credits and adjustments may be age-restricted for the elderly. The Planning Board shall monitor applicant requests for any age-restricted low- or moderate-income units to ensure any preliminary approval granted does not cause the Town to exceed the total twenty-five-percent cap on such units.

G. Building schedule.

- (1) The low- and moderate-income units shall obtain certificates of occupancy in tandem with the market rate units according to the following schedule:

Percentage of Market Housing Unit Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
Up to 25%	0% (none required)
25% + 1 unit	10%
50%	50%
75%	75%
90%	100%
100%	—

- (2) If the number of low- and moderate-income units to be provided includes a fraction, the number shall be rounded up. If the number of market-rate-income units permitted includes a fraction, the number shall be rounded down.

H. Affordability requirement for residential conversions.

- (1) In those development applications involving the conversion of a nonresidential structure into a residential use containing more than 25% dwelling units, an inclusionary set-aside requirement of 10% of the total dwelling units to be created from such conversion shall be affordable to low- and moderate-income families according to the guidelines contained herein.
- (2) Development applications seeking a market-rate residential use variance for other than single-family detached dwellings and containing either a gross density of four or more units per gross acre or more than 25 units shall be granted only with a minimum ten-percent set-aside for low- and moderate-income housing. If, however, the use variance grant results in a gross density of six or more units per acre, then the low- and moderate-income housing set-aside requirement shall be increased to 20% of the total units approved.

§ 166-48. Purpose.

- A. In *Holmdel Builders' 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. 52:27d-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 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH 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 the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- C. This article establishes standards for the collection, maintenance and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, Sections 8 and 32 through 38.¹ Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

§ 166-49. Basic requirements.

- A. This article shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- B. The Town of Newton shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and 5:96-5.3.

§ 166-50. Definitions.

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

AFFORDABLE HOUSING DEVELOPMENT — A development included in the housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or THE COUNCIL — The New Jersey Council on Affordable Housing established under the Act, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

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

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as

1. Editor's Note: See N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7.

determined in accordance with Sections 1, 5 and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

§ 166-51. Residential development fees.

A. Imposed fees.

- (1) Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- (1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) 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.
- (3) Within the redevelopment zones and Special District 9 residential developers shall be exempt from paying a development fee.
- (4) One- and two-family owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

§ 166-52. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types

of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.

- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

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

- (1) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2.5%, unless otherwise exempted below.
- (2) The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Town of Newton as a lien against the real property of the owner.

§ 166-53. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official

responsible for the issuance of a building permit.

- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in 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 Town of Newton fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the 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 Town of Newton. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the

Town of Newton. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 166-54. Affordable housing trust fund.

- A. It is hereby reaffirmed the Town of Newton has established a separate, interest-bearing housing trust fund to be maintained by the municipal housing liaison for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount.
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Newton's affordable housing program.
- C. Newton has provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, Lakeland Bank Corp., and COAH to permit COAH 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 COAH.

§ 166-55. Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Town of Newton'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 nonresidential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the