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March 13, 2026

### **VIA ECOURTS**

Hon. Daniel R. Lindemann, J.S.C.  
Union County Courthouse  
2 Broad Street, Floor 2 Rotunda  
Elizabeth, New Jersey 07207

**RE: In the Matter of the Application of the Township of Clark**  
**Docket No. UNN-L-415-25**

Dear Judge Lindeman:

On behalf of the Township of Clark (“Township” or “Clark”), the Township wrote to you and identified 4 ordinances that had been introduced and 8 resolutions that had been adopted. The Township also indicated it would adopt a resolution approving a rehab program. Since then, the Township adopted all the ordinances:

1. 26-06, Amending Chapter 195, Zoning, of the Code of the Township of Clark, to Establish A New R-B-16-2 Multiple-Family Residential Overlay District for Block 148, Lots 1, 10, 13, 15, 19, 20, 23 & 24, and Block 131, Lot 7, to be adopted March 13, 2026. See Exhibit 1.
2. 26-07, Amending Chapter 195, Zoning, of the Code of the Township of Clark, to Establish the Mixed-Use Affordable Housing Overlay District for Block 63, Lots 52, 53, 54 & 55.01, to be adopted March 13, 2026. See Exhibit 2.
3. 26-08, Amending Chapter 195, Zoning, of the Code of the Township of Clark, to Establish a New Age Restricted/Senior Housing Overlay District for Block 52, Lot 15.0101, to be adopted March 13, 2026. See Exhibit 3.
4. 26-09, Adopting an Affordable Housing Ordinance and Developmental Fee Ordinance in Accordance with the Fair Share Housing Act, Uniform Housing Affordability Controls, and N.J.A.C. 5:99-1 et sq., to be adopted on March 13, 2026. See Exhibit 6. This is the extensive

ordinance the Township adopted to establish standards for all affordable projects. The New Jersey Housing and Mortgage Finance Agency (HMFA) adopted the regulations that are the basis for this ordinance on November 6, 2025 and those regulations only became available to the public on December 15, 2025. See Exhibit 4.

The Township also adopted a resolution approving a rehab program. See Exhibit 5.

In any event, we look forward to addressing any concerns the Court may have once it reviews this package of documents. Thank you for your attention to this matter.

Respectfully submitted,

*Jeffrey R. Surenian*

Jeffrey R. Surenian

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

# Exhibit 1

**TOWNSHIP OF CLARK**

**Ordinance No. 26 - 06**

**Adopted March 13, 2026**

Introduced: February 17, 2026 Public Hearing: March 13, 2026

**AN ORDINANCE AMENDING CHAPTER 195, ZONING, OF THE CODE OF THE TOWNSHIP OF CLARK, TO ESTABLISH A NEW R-B-16-2 MULTIPLE-FAMILY RESIDENTIAL OVERLAY DISTRICT FOR BLOCK 148, LOTS 1, 10, 13, 15, 19, 20, 23 & 24, AND BLOCK 131, LOT 7**

**WHEREAS**, the Municipal Land Use Law (“MLUL”) of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

**WHEREAS**, the township desires to create additional zones in which multi-family family housing developments are permitted as an overlay option to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Clark may satisfy its unmet need obligation to create such affordable housing; and

**WHEREAS**, the Township finds the area that is proposed to be overlay zoned to adequately address its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Township of Clark, County of Union, State of New Jersey, as follows:

**SECTION ONE.** Chapter 195-112, Designation of zoning districts, of the Ordinances of the Township of Clark, is hereby amended to include the following:

**R-B-16-2 Multiple Family Residential Overlay District**

**SECTION TWO.** Chapter 195-140.4, Zoning, of the Ordinances of the Township of Clark is hereby amended to establish new R-B-16-2 Multiple Family Residential Overlay District, to read as follows:

**§ 195-140.6. R-B-16-2 Multiple-Family Residential District.**

- A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing. This overlay applies to Block 148, Lots 1, 10, 13, 15, 19, 20, 23 & 24; and Block 131, Lot 7.
- B. Permitted uses. The permitted uses are townhouses and garden apartments.

C. Development standards.

- (1) Definition of uses. Garden apartments include multiple dwellings arranged in flats, up to 40 feet in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.
- (2) Density. The maximum density shall be 16 units per acre of site area.
- (3) Affordable housing requirements. A minimum of 20% of the housing units shall be deed-restricted so as to be affordable to and occupied only by qualified low- and moderate-income family households, including very-low-income households, if applicable, in full accordance with the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township's Code).
- (4) Building requirements, garden apartments. Maximum building height shall be 40 feet, and maximum building length shall be 120 feet.
- (5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.
- (6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.
- (7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 40 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setback from parking areas shall be 20 feet from building fronts and rears, and 20 feet at building ends.
- (8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, or parking areas shall be suitably landscaped and arranged to provide appropriate active and passive recreation facilities. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip at least 5 feet wide shall be provided to form a visual screen.
- (9) Parking areas and access drives. For townhouses, one parking space shall be provided within the unit or in a garage. Off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking lot shall be located within front yards or within less than 10 feet from side and rear property lines.
- (10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 hereunder, as well as the standards below:
  - (a) Maximum impervious cover: 80%.
  - (b) There shall be a minimum of 20% open space.

**SECTION THREE.** The Zoning Map of the Township of Clark, Union County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

**SECTION FOUR.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Union County Planning Board and all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63, if required.

**SECTION FIVE.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Clark for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Township Planning Board is directed to make and transmit to the Township Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Township Master Plan and recommendations regarding any inconsistencies and any other matters as the Board deems appropriate.

**SECTION SIX.** This Ordinance shall be submitted to the Township Mayor, and the Mayor shall within ten (10) days after receiving the Ordinance, either approve the Ordinance by affirming the Mayor's signature thereto or return it to the Township Council by delivering it to the Township Clerk together with a statement setting forth the Mayor's objections thereto or any item or part thereof. The Ordinance or any item or part thereof shall not take effect without the Township Mayor's approval, unless the Mayor fails to return the Ordinance to the Township Council within ten (10) days after it has been presented to the Mayor, or unless the Council upon reconsideration thereof on or after the third day following its return by the Mayor shall by a vote of two-thirds of the Members of the Council resolve to override the Mayor's veto pursuant to N.J.S.A. 40:69A-41.

**SECTION SEVEN.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Township Mayor pursuant to N.J.S.A. 40:69A-41; (3) publication in accordance with the laws of the State of New Jersey; and filing of the final form of adopted Ordinance by the Township Clerk with (a) the Union County Planning Board pursuant to N.J.S.A.40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

Effective Date: April 8, 2026

**ATTEST:**

  
\_\_\_\_\_  
**EDITH L. MERKEL, RMC**  
Township Clerk

**APPROVED:**

  
\_\_\_\_\_  
**FRANK G. MAZZARELLA**  
Council Vice President

  
\_\_\_\_\_  
**ANGEL ALBANESE**  
Mayor

Res26/2-17 26-06AmendCh195Zone R-B-16-2 B148L1,10,13,15,19,20,23,24andB131L7RaritanRdandPolishCultural

		Motion to	Second	Motion to	Second				
		Introduce		Adopt		Aye	Nay	Abstain	Absent
	Hoff		✓		✓	✓			
	Hund			✓		✓			
<input checked="" type="checkbox"/>	Adopted	Mazzarella				✓			
<input type="checkbox"/>	Adopted as Amended	Minniti				✓			
<input type="checkbox"/>	Defeated	O'Connor	✓						
<input type="checkbox"/>	Tabled	Toal				✓			✓
<input type="checkbox"/>	Withdrawn	Smith							✓
	Entire Council								
	<b>TOTAL</b>					5			2

INTRODUCED: February 17, 2026

PUBLISHED IN: February 19, 2026, The Leader and Township Website [www.ourclark.com](http://www.ourclark.com)

PUBLIC HEARING AND ADOPTION: March 13, 2026

PUBLISHED IN: March 13, 2026, Township Website [www.ourclark.com](http://www.ourclark.com) (P.L. 2025 c. 72)

EFFECTIVE DATE: April 8, 2026

State of New Jersey)  
County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Ordinance 26-06 as adopted at a Special Meeting of the Township Council held on March 13, 2026.

  
Edith L. Merkel, Township Clerk  
Date: March 13, 2026

# Exhibit 2

**TOWNSHIP OF CLARK**

**Ordinance No. 26 - 07**

**Adopted March 13, 2026**

Introduced: February 17, 2026 Public Hearing: March 13, 2026

**AN ORDINANCE AMENDING CHAPTER 195, ZONING, OF THE CODE OF THE TOWNSHIP OF CLARK, TO ESTABLISH THE MIXED-USE AFFORDABLE HOUSING OVERLAY DISTRICT FOR BLOCK 63, LOTS 52, 53, 54 & 55.01.**

**WHEREAS**, the Municipal Land Use Law (“MLUL”) of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

**WHEREAS**, the Township desires to create additional zones in which multi-family non-age-restricted housing developments are permitted as an overlay option to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Clark may satisfy its unmet need obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

**WHEREAS**, the Township finds the area that is proposed to be overlay zoned to adequately address its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Township of Clark, County of Union, State of New Jersey, as follows:

**SECTION ONE.** Chapter 195-112, Designation of zoning districts, of the Ordinances of the Township of Clark, is hereby amended to include the following:

MU -AH Mixed-Use Affordable Housing Overlay Zone

**SECTION TWO.** Chapter 195-140.4, Zoning, of the Ordinances of the Township of Clark is hereby amended to establish new MU –AH Mixed-Use Affordable Housing Overlay Zone, to read as follows:

**§ 195-140.4. MU -AH Mixed-Use Affordable Housing Overlay Zone.**

- a. Purpose. The purpose of this overlay zoning district is to encourage the construction of low- and moderate-income housing by permitting mixed-use commercial development with inclusionary multifamily development subject to the Mixed Use-Affordable Housing Zone regulations enumerated herein at Block 63, Lots 52, 53, 54 and 55.01. It is further the intent of the zone to promote neighborhood-scale mixed-use development. Large-scale, single-user commercial development is to be discouraged in this zone.
- b. Principal Permitted Commercial and Residential Uses.
  1. Retail business.
  2. Dance studios, art and photographic studios, yoga and wellness studios or similar such uses.

3. Restaurants and food establishments without drive-through facilities.
  4. Pharmacies without drive-through facilities.
  5. Health spas, gym and boutique exercise/fitness facilities.
  6. General office uses.
  7. Multifamily residential housing on ground level, above commercial or as stand-alone buildings provided no more than 30% of such multifamily residential units may be placed on ground level.
- c. Multiple permitted uses may occupy a single building.
- d. Rooftops limited to second-story roof areas with direct walkout access from a third floor may be used as an outdoor amenity space.
- e. Accessory Uses. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the MU-AH Zone.
- f. Prohibited Uses. Any use not specifically permitted herein is prohibited.
- g. Dwelling Unit Maximum Density. The maximum number of permitted dwelling units shall not exceed 16 units per acre.
- h. It is intended that this zone be developed as a mix of residential and commercial uses to satisfy the Township's affordable housing obligation. It is further intended that the zone be developed in a comprehensive and coordinated fashion. Therefore, no development may proceed without a comprehensive development plan that demonstrates that the mix of commercial and residential components, including the affordable housing obligation, as required by this zone, are satisfied. This requirement should not be construed as precluding a phased development plan; provided, however, that such phasing guarantees the development of affordable housing as contemplated in the zone and in accordance with the Township's Affordable Housing Ordinance and state affordable housing laws and regulations.
- i. Building area, external yard and bulk requirements shall be as follows:
1. Minimum lot area (acres): 1.0
  2. Minimum distance between buildings (feet).
    - (a) Buildings fronting directly on Raritan Road (feet): 15.
    - (b) All other buildings (feet): 10.
  3. Minimum setbacks from external lot lines (feet) shall be as follows:
    - (a) Front yard: 15.
    - (b) Side yard: 15.
    - (c) Rear yard: 15.
  4. Maximum building lot coverage (percentage): 60%.
  5. Maximum impervious lot coverage (percentage): 80%.

- j. **Building Height.** To provide for the appropriate transition and relationship of proposed development to Raritan Road and the surrounding area, the regulations regarding permitted maximum building height, as provided herein, are as follows:
1. **Buildings Fronting on Raritan Road.**
    - (a) Shall not exceed a building height of two stories or 30 feet.
  2. Buildings located behind the frontage building on Raritan Road or at least 50 feet from Raritan Road, the building height can increase to no more than three stories and shall not exceed 40 feet.
- k. **Site Design Requirements.** The following site design standards are intended to promote a unified theme, displayed through the application of common building materials to achieve a harmonious and cohesive design. Deviations from this section shall be considered design standard exceptions and not variances and may be granted at the discretion of the Planning Board if doing so is compatible and consistent with the intent and purposes of the zone.
1. **Architectural Design Standards.**
    - (a) **Facade Design.**
      - (1) Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street-level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
      - (2) Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
        - (i) Each vertical articulation shall be no greater than 30 feet apart.
        - (ii) Each vertical articulation shall be a minimum of one foot deep.
        - (iii) Each vertical projection noted above may extend into the required front yard a maximum of 18 inches in depth.
        - (iv) Building walls with expansive blank walls are prohibited on any building facade regardless of its orientation.
    - (b) **Rooflines.** Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
    - (c) All ground-level retail and service uses that face a public street shall have clear glass on at least 50% of their facades between two feet and eight feet above grade.
    - (d) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

- (e) All buildings should relate harmoniously to the site's natural features and existing buildings, as well as other structures in the vicinity that have a visual relationship and orientation to the proposed buildings. Such features should be incorporated into the design of building form and mass and assist in the determination of building orientation in order to preserve visual access to natural and man-made community focal points.
- (f) Buildings with expansive blank walls are prohibited. Appropriate facade treatments should be imposed to ensure that such buildings and facades are integrated with the rest of the development and the entirety of the building.
- (g) New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.
- (h) Cornices, awnings, canopies, flagpoles, signage, and other ornamental features should be encouraged as a means to enhance the visual environment. Such features may be permitted to project over pedestrian sidewalks, with a minimum vertical clearance of 8.5 feet, to within 15 feet of a curb.
- (i) A human scale of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.
- (j) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and framing should be utilized to reinforce verticality.
- (k) Refuse and recycling shall be located interior to a building or, alternatively, if located outside, the refuse area shall be appropriately screened by decorative masonry wall consistent with the type of building materials used within the development not to exceed six feet.
- (l) Rooftop utilities, including mechanical, electrical, and plumbing equipment, and HVAC units, are permitted but shall be shielded from public view with appropriate screening that complements the character of the buildings architecture.
- (m) Private balconies shall be permitted but shall not exceed a maximum depth of five feet beyond the building facade nor encroach within a required setback. Notwithstanding the foregoing, ground level private and common courtyards shall not be subject to these requirements and may be permitted within the required setback provided the encroachment is screened or landscaped.

**SECTION THREE.** The Zoning Map of the Township of Clark, Union County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

**SECTION FOUR.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Union County Planning Board and all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63, if required.

**SECTION FIVE.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Clark for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Township Planning Board is directed to make and transmit to the Township Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Township Master Plan and recommendations regarding any inconsistencies and any other matters as the Board deems appropriate.

**SECTION SIX.** This Ordinance shall be submitted to the Township Mayor, and the Mayor shall within ten (10) days after receiving the Ordinance, either approve the Ordinance by affirming the Mayor's signature thereto or return it to the Township Council by delivering it to the Township Clerk together with a statement setting forth the Mayor's objections thereto or any item or part thereof. The Ordinance or any item or part thereof shall not take effect without the Township Mayor's approval, unless the Mayor fails to return the Ordinance to the Township Council within ten (10) days after it has been presented to the Mayor, or unless the Council upon reconsideration thereof on or after the third day following its return by the Mayor shall by a vote of two-thirds of the Members of the Council resolve to override the Mayor's veto pursuant to N.J.S.A. 40:69A-41.

**SECTION SEVEN.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Township Mayor pursuant to N.J.S.A. 40:69A-41; (3) publication in accordance with the laws of the State of New Jersey; and filing of the final form of adopted Ordinance by the Township Clerk with (a) the Union County Planning Board pursuant to N.J.S.A.40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

Effective Date: April 8, 2026

**ATTEST:**

  
\_\_\_\_\_  
**EDITH L. MERKEL, RMC**  
Township Clerk

**APPROVED:**

  
\_\_\_\_\_  
**FRANK G. MAZZARELLA**  
Council Vice President

  
\_\_\_\_\_  
**ANGEL ALBANESE**  
Mayor

Ord26/2-17 26-07AmendCh195ZoneMU-AH B63L52,53,54,55.01(ClarktonShoppingandClarkVillage)

		Motion to	Second	Motion to	Second	Aye	Nay	Abstain	Absent
		Introduce		Adopt					
	Hoff			✓		✓			
	Hund		✓		✓	✓			
✓	Adopted	Mazzarella				✓			
	Adopted as Amended	Minniti				✓			
	Defeated	O'Connor	✓						
	Tabled	Toal				✓			✓
	Withdrawn	Smith							✓
	Entire Council								
	<b>TOTAL</b>					5			2

INTRODUCED: February 17, 2026

PUBLISHED IN: February 19, 2026, The Leader and Township Website [www.ourclark.com](http://www.ourclark.com)

PUBLIC HEARING AND ADOPTION: March 13, 2026

PUBLISHED IN: March 13, 2026, Township Website [www.ourclark.com](http://www.ourclark.com) (P.L. 2025 c. 72)

EFFECTIVE DATE: April 8, 2026

State of New Jersey)  
County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Ordinance 26-07 as adopted at a Special Meeting of the Township Council held on March 13, 2026.

  
Edith L. Merkel, Township Clerk  
Date: March 13, 2026

# Exhibit 3

**TOWNSHIP OF CLARK**

**Ordinance No. 26 - 08**

**Adopted March 13, 2026**

Introduced: February 17, 2026 Public Hearing: March 13, 2026

**AN ORDINANCE AMENDING CHAPTER 195, ZONING, OF THE CODE OF THE TOWNSHIP OF CLARK, TO ESTABLISH A NEW AGE RESTRICTED/SENIOR HOUSING OVERLAY DISTRICT FOR BLOCK 52, LOT 15.0101**

**WHEREAS**, the Municipal Land Use Law (“MLUL”) of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

**WHEREAS**, the Township desires to create additional zones in which multi-family age-restricted housing developments are permitted as an overlay option to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Clark may satisfy its unmet need obligation to create such affordable housing; and

**WHEREAS**, the Township finds the area that is proposed to be overlay zoned to adequately address its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Township of Clark, County of Union, State of New Jersey, as follows:

**SECTION ONE.** Chapter 195-112, Designation of zoning districts, of the Ordinances of the Township of Clark, is hereby amended to include the following:

R-SH-2 Age-Restricted/Senior Housing Overlay District

**SECTION TWO.** Chapter 195-140.5, Zoning, of the Ordinances of the Township of Clark is hereby amended to establish new R-SH-2 Age-Restricted/Senior Housing Overlay District, to read as follows:

**§ 195-140.5. R-SH-2 Age-Restricted/Senior Housing Overlay District.**

- A. Purpose of district. The purpose of the Age-Restricted/Senior Housing District is to permit construction of an age-restricted multifamily residential development at Block 52, Lot 15.0101 with a 20% affordable housing set-aside in accordance with the Township's adopted Housing Element and Fair Share Plan.
- B. Permitted uses. Age-restricted multifamily residential development containing a 20% set-aside for low- and moderate-income households ages 55 years and older. The development may be constructed as multifamily dwellings, multiple-group dwellings, or garden apartments, townhouses or a townhouse/flat combination.

- C. Accessory uses and structures. The following accessory uses and structures shall be permitted in the R-SH Zone District:
- (1) Parking and parking facilities as regulated in Article XXIV.
  - (2) Signs pursuant to the provisions of Article XXV for the uses for which signs are permitted.
  - (3) Other accessory uses and structures customarily subordinate and incidental to permitted principal uses.
- D. Development standards:
- (1) Minimum tract area: 4 acres.
  - (2) Minimum frontage: no standard.
  - (3) Density. The maximum density shall be 16 units per acre for townhouses and townhouse/apartment/flat combinations.
  - (4) Low- and moderate-income housing requirements. A minimum of 20% of the total age-restricted dwelling units shall be affordable to low- and moderate-income households as regulated by the Township's Affordable Housing Ordinance (Chapter 66 of the Township Code).
  - (5) Building height. Maximum building height shall be 40 feet and three stories.
  - (6) Design standards. All development shall incorporate the following design standards. Waivers from these standards may be granted by the Board pursuant to N.J.S.A. 40:55D-51b.
    - (a) Building design. The objectives of the building design standards are to provide overall high-quality building with special emphasis on methods that reduce the visual impact of large buildings. The exterior appearances of buildings shall complement the character of existing development in the surrounding area.
    - (b) Specific design features that reduce the visual impact of large buildings shall be used. These include but are not limited to:
      - [1] Elements that draw focus, introduce scale and provide three-dimensional effects.
      - [2] Variations and articulation to overall building facades by changing the facade plane.
      - [3] Use of subdued wall coloration, patterning, texture and reveals.
      - [4] Extensive use of landscaping to shield and break up building planes.
    - (c) Building mass. Solid and unarticulated buildings are not permitted. The mass, scale and visual impact of buildings shall be reduced by staggered building walls. The staggered building walls shall incorporate a setback or bump-out that, in the opinion of the Board, provides an equivalent reduction in the mass, scale and visual impact of the buildings.

(d) Architectural interest. To provide architectural interest, create a three-dimensional effect and further reduce the visual scale and impact of a building, the following techniques shall also be used:

- [1] Variations in building treatment shall be liberally used and shall include painted panels, awnings or canopies, wall openings, wall texture changes, changes in building height and variations in rooflines.
- [2] Building entries and building corners shall be readily identifiable through the use of canopies, marquees, architectural treatment and the use of different materials.
- [3] Extensive use of small-scale elements, such as planter walls and hedges, shall be provided particularly around building entrances.
- [4] Landscaping shall be employed to further reduce the visual impact of building mass.

(e) Materials.

(7) Façade surfaces shall be primarily constructed of brick, stone, cast stone, fiber cement lap siding, clapboard, cedar shingles, vertical boards, glass or similar materials of equally high quality and aesthetics.

(8) Rooflines and parapets shall be designed to minimize the visual impact of rooftop-mounted equipment, such as vents and stacks, from surrounding properties.

(a) Fenestration Standards: building facades shall contain transparent glass as per the following standards:

- [1] Residential facades: 25-40% of façade.
- [2] Parking facades: 25%. For parking, this standard can be achieved through alternatives other than window and similar style opening. The use of other strategies that eliminate stark unbroken facades may be considered by the Planning Board as satisfying this requirement.
- [3] Ground level (non-residential): 50-80% of façade.
- [4] Non-residential windows shall be kept clear of internal obstructions. Interior furniture, fixtures, and other obstructions taller than the windowsill must be placed at least three (3) feet from the window area.
- [5] Covered parking areas shall be adequately ventilated to the satisfaction of the Township Engineer. Disruptions to exterior walls resulting from the need to ventilate ground floor enclosed parking areas shall be decorative in nature and utilize such architectural adornments as: arches; wrought iron; or decorative millwork.

(b) Pedestrian circulation.

- [1] On-site concrete or brick sidewalks, or such other material acceptable to the Board, shall be provided to create a continuous pedestrian network and to connect with existing sidewalks and neighborhoods.
- [2] Vehicular and pedestrian circulation patterns shall be separated. A landscaped buffer shall provide a separation between pedestrian and vehicular ways.

- [3] Pedestrian crossings shall be indicated by such techniques as changed pavement materials or texture, signals, signage, or painted stripes, as determined by the Board.
  - [4] Secure and convenient pedestrian walkway access shall be provided between parking lots, sidewalks and primary entrances to buildings. Sidewalks shall be barrier-free, a minimum of five feet in width and shall be set back a minimum of five feet from all buildings.
- (9) Setbacks. The following setback standards shall apply:
- (a) Buildings:
    - [1] A 25-foot perimeter setback is required for all yards, except the rear yard facing the Clark Reservoir, which may be reduced to 5 feet.
- (10) Building coverage. Buildings and accessory structures shall cover not more than 55% of the lot or parcel area. Accessory structures devoted to parking shall count towards total lot coverage.
- (11) Total lot coverage. Not more than 70% of the lot or parcel area shall be covered by a combination of buildings, accessory structures, parking areas, driveways, and other impervious surfaces.
- (12) Minimum open space. Not less than 30% of the parcel area shall be open space as defined in § 195-111.
- (13) Parking. Off-street parking shall be provided in accordance with the residential site improvement standards. No off-street parking shall be located less than 10 feet from any property line. A carport and adjacent driveway space shall be counted as two spaces; designated stacked parking spaces shall also be counted as two spaces. Parking spaces may be located at grade in the building footprint (garage), without limitation.
- (14) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and be arranged such that appropriate active and passive recreation opportunities will be provided on site for the residents of the development (e.g., walking paths, benches, gazebos, or ponds or water features); a suitable planted landscaped buffer strip of at least 10 feet in width shall be provided to the property boundaries to form a visual screen.
- (15) Townhouse and townhouse/apartment combination building spacing. The minimum spacing between buildings shall be 40 feet between front and front/back, 25 feet front/back to side and 15 feet end to end. The minimum setbacks from driveways and parking areas shall be 15 feet from primary buildings, unless a garage is attached.

**SECTION THREE.** The Zoning Map of the Township of Clark, Union County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

**SECTION FOUR.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Union County Planning Board and all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63, if required.

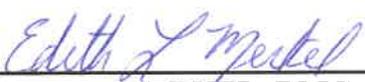
**SECTION FIVE.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Clark for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Township Planning Board is directed to make and transmit to the Township Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Township Master Plan and recommendations regarding any inconsistencies and any other matters as the Board deems appropriate.

**SECTION SIX.** This Ordinance shall be submitted to the Township Mayor, and the Mayor shall within ten (10) days after receiving the Ordinance, either approve the Ordinance by affirming the Mayor's signature thereto or return it to the Township Council by delivering it to the Township Clerk together with a statement setting forth the Mayor's objections thereto or any item or part thereof. The Ordinance or any item or part thereof shall not take effect without the Township Mayor's approval, unless the Mayor fails to return the Ordinance to the Township Council within ten (10) days after it has been presented to the Mayor, or unless the Council upon reconsideration thereof on or after the third day following its return by the Mayor shall by a vote of two-thirds of the Members of the Council resolve to override the Mayor's veto pursuant to N.J.S.A. 40:69A-41.

**SECTION SEVEN.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Township Mayor pursuant to N.J.S.A. 40:69A-41; (3) publication in accordance with the laws of the State of New Jersey; and filing of the final form of adopted Ordinance by the Township Clerk with (a) the Union County Planning Board pursuant to N.J.S.A.40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

Effective Date: April 8, 2026

**ATTEST:**

  
\_\_\_\_\_  
**EDITH L. MERKEL, RMC**  
Township Clerk

**APPROVED:**

  
\_\_\_\_\_  
**FRANK G. MAZZARELLA**  
Council Vice President

  
\_\_\_\_\_  
**ANGEL ALBANESE**  
Mayor

Ord26/2-17 26-08AmendCh195ZoneR-SH-2 B52L15.0101GranCenturionsOverlay

		Motion to Introduce	Second	Motion to Adopt	Second	Aye	Nay	Abstain	Absent
	Hoff		✓		✓	✓			
	Hund					✓			
✓	Adopted	Mazzarella	✓	✓		✓			
	Adopted as Amended	Minniti				✓			
	Defeated	O'Connor							✓
	Tabled	Toal				✓			
	Withdrawn	Smith							✓
	Entire Council								
	<b>TOTAL</b>					5			2

INTRODUCED: February 17, 2026

PUBLISHED IN: February 19, 2026, The Leader and Township Website [www.ourclark.com](http://www.ourclark.com)

PUBLIC HEARING AND ADOPTION: March 13, 2026

PUBLISHED IN: March 13, 2026, Township Website [www.ourclark.com](http://www.ourclark.com) (P.L. 2025 c. 72)

EFFECTIVE DATE: April 8, 2026

State of New Jersey)  
County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Ordinance 26-08 as adopted at a Special Meeting of the Township Council held on March 13, 2026.

  
Edith L. Merkel, Township Clerk  
Date: March 13, 2026

# Exhibit 4

**TOWNSHIP OF CLARK**  
**Ordinance No. 26 - 09**  
**Adopted March 13, 2026**

Introduced: February 17, 2026 Public Hearing: March 13, 2026

**AN ORDINANCE ADOPTING AN AFFORDABLE HOUSING ORDINANCE AND DEVELOPMENT FEE ORDINANCE IN ACCORDANCE WITH THE FAIR HOUSING ACT, UNIFORM HOUSING AFFORDABILITY CONTROLS, AND N.J.A.C. 5:99-1, ET SEQ.**

**WHEREAS**, the Township of Clark (the “Township” or “Clark”) filed a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 22, 2025; and

**WHEREAS**, the Court entered an order on March 27, 2025 setting the Township’s Present Need of 71 units and a Prospective Need of 166 units, and directing the Township to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

**WHEREAS**, the Township filed its HEFSP on June 6, 2025 (“Adopted HEFSP”); and

**WHEREAS**, Fair Share Housing Center (“FSHC”) referred to as (“Objectors”) filed challenges to the Adopted HEFSP in August 2025 pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b); and

**WHEREAS**, the dispute resolution program (“Program”) created by the Fair Housing Act appointed Mary C. Jacobson as the Program Judge and James Kyle, PP/AICP, as the adjudicator to help mediate the disputes; and

**WHEREAS**, mediation culminated in a Mediation Agreement with FSHC; and

**WHEREAS**, the Township is committed to fulfilling its agreement with FSHC and implementing its Housing Element and Fair Share Plan as amended.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Clark that a replacement to Chapter 66 titled “Affordable Housing” is created and Chapters 66-1 through 34-12 are amended as follows:

**SECTION I**

A new Chapter 66 entitled “Affordable Housing” is hereby created to replace the existing Chapter 66 Affordable Housing Ordinance as follows, with the entirety of this Section to be included in Chapter 66-1:

**A. Introduction & Applicability**

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the Township of Clark consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., (“Affordable Housing Rules”), and the Housing and Mortgage

Finance Agency's (HMFA) Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq. (commonly referred to as "UHAC") as reflected in the Housing Element and Fair Share Plan ("HEFSP") adopted on June 11 2025 and amended in March 2026.

2. This Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Township of Clark Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
  - a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
  - b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
  - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus pursuant to the current Low Income Housing Tax Credit program, a 15-year extended-use period, for a total of not less than 45 years.
6. The UHAC standards shall not apply to the exclusions referenced in N.J.A.C.5:80-26.1
7. Nothing herein is intended to modify the Township's right "to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions" in accordance with N.J.S.A. 52:27D-311.m.

## B. Definitions

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

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

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

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

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

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

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

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

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

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

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

“Affordable housing development” means a development included in a municipality’s housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development.

This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP.

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

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

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

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

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

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

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

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

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

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

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

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

“Commissioner” means the Commissioner of the Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

“Equity share amount” means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

“Exit sale” means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

“Exclusionary zoning litigation” means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder’s remedy.

“Extension of expiring controls” means extending the deed restriction period on units where the controls on the deed restriction imposed at the closing of the first purchaser of the affordable unit will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

“Fair share obligation” means the total of the present need and prospective need, including prior rounds, as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

“Fair share plan” means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

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

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

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

“Household income” means a household’s gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

“Housing element” means the portion of a municipality’s master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

“Housing region” means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

“Inclusionary development” means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate- income households.

“Judgment of compliance” or “judgment for repose” means a determination issued by the Superior Court approving a municipality’s fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

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

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

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

“Mixed use development” means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1)there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities maybe considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

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

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

“MONI” means the no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

“Municipal housing liaison” or “MHL” means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

“Municipal affordable housing trust fund” means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

“Municipal development fee ordinance” means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

“New construction” means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

“New Jersey Affordable Housing Trust Fund” means an account established pursuant to N.J.S.A. 52:27D-320.

“New Jersey Housing Resource Center” or “Housing Resource Center” means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

“95/5 restriction” means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

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

“Nonprofit” means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

“Non-residential development” means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group

according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

“Non-residential development fee” means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

“Order for repose” means the protection a municipality has from exclusionary zoning litigation including a builder’s remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

“Payment in lieu of constructing affordable units” means the prior approval of the payment of funds to the municipality by a developer when affordable units are were not produced on a site zoned for an inclusionary development.

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

“Qualified Urban Aid Municipality” means a municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

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

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

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a

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

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

"Random selection process" means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

"RCA administrator" means an appointed municipal employee who is responsible for oversight and/or administration of affordable units and associated revenues and expenditures within the municipality that were funded through regional contribution agreements.

"RCA project plan" means a past application, submitted by a receiving municipality in an RCA, delineating the manner in which the receiving municipality intended to create or rehabilitate low- and moderate-income housing.

"Receiving municipality" means, for the purposes of an RCA, a municipality that contractually agreed to assume a portion of another municipality's fair share obligation.

"Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

"Recreational facilities and community centers" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

"Regional contribution agreement" or "RCA" means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into and was approved by COAH and/or

Superior Court prior to July 18, 2008, to transfer a portion of a municipality's affordable housing obligation to another municipality within its housing region.

"Regional median income" means the median income by household size for an applicable housing region, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

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

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

"Residential development fee" means money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of this subchapter but does not include a market-rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

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

"State Development and Redevelopment Plan" or "State Plan" means the plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c. 398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c. 398 (C.52:18A-200).

"Supportive housing household" means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney-Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in

aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant's self-identification of household members on the affordable housing application.

“Supportive housing sponsoring program” means grant or loan program which provided financial assistance to the development of the unit.

“Supportive housing unit” means a restricted rental unit, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. Supportive housing units are also referred to as permanent supportive housing units.

“Transitional housing” means temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; (2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the department; and (4) allows households to remain for a minimum of six months.

“Treasurer” means the Treasurer of the State of New Jersey.

“UHAC” means the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

“UHORP” means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

“Unit type” means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2 units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

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

“Very-low-income housing” means housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

“Veteran” means a veteran as defined at N.J.S.A. 54:4-8.10.

“Veterans' preference” means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given

preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

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

### **C. Monitoring and Reporting Requirements**

1. In accordance with the Act and N.J.A.C. 5:99 et seq., the Township is required to annually provide updated affordable housing monitoring activity and affordable housing trust fund activity through the Department’s Affordable Housing Monitoring Service on or before February 15 annually.
2. All developers, program sponsors and landlords of developments or projects containing affordable housing in the Township shall be required to provide all necessary information related to the status of construction and occupancy of each affordable unit within the respective developer, program sponsor or landlord’s development to the municipality’s Municipal Housing Liaison by no later than January 2 annually for the previous year.

### **D. Municipality-wide Mandatory Set-Aside**

1. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20%.
2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
3. All such affordable units shall be governed by this ordinance the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.

- E. New Construction** Per the definition of “New Construction,” this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

1. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
2. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
  - a. Design of 100 percent affordable developments:
    - i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
    - ii. Each bedroom in each restricted unit must have at least one window.
    - iii. Restricted units must include adequate air conditioning and heating.
  - b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
    - i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
    - ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
    - iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the

- provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
- iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
  - v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
  - vi. Each bedroom in each restricted unit must have at least one window.
  - vii. Restricted units must be of the same unit type as market-rate units within the same building.
  - viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
- i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
  - ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
  - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
  - iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

- v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
- vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
- vii. Each bedroom in each restricted unit must have at least one window; and
- viii. Restricted units must include adequate air conditioning and heating.

#### 4. Utilities.

- a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
- b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).

#### 5. Low/moderate split and bedroom distribution.

- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
- c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
- d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
  - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
  - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
  - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded up, of the total number of low- and moderate-income units.
  - iv. At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units.

- v. At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units.
  - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
- e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
  - b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
    - i. An adaptable toilet and bathing facility on the first floor;
    - ii. An adaptable kitchen on the first floor;
    - iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
    - iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
    - v. If one or more of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
    - vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

- (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
  - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
  - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

#### **F. Affordable Housing Programs**

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” By way of example only, the following is a non-exhaustive list of potential crediting mechanisms the Township may rely upon from COAH regulations.
2. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation).
  - a. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
  - b. Both ownership and rental units shall be eligible for rehabilitation funds.

- c. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
  - d. The municipality shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
  - e. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L. 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
  - f. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
    - i. If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
    - ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant's current rent or the maximum rent permitted under UHAC.
    - iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
    - iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.
3. Accessory Apartment Program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
- a. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units .
  - b. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
  - c. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.
  - d. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.

- e. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
  - f. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
4. Market to Affordable program (per N.J.A.C. 5:97-6.9).
- a. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
  - b. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
  - c. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
  - d. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
  - e. The units shall comply with UHAC with the following exceptions:
    - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
    - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
  - f. Affordability average (N.J.A.C. 5:80-26.4); however:
    - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
    - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
5. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
- a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
  - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
  - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.

- d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
  - e. Low- and moderate-income residents cannot be charged any upfront fees.
  - f. The units shall comply with UHAC with the following exceptions:
    - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
    - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
    - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
  - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
6. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
    - i. Units are subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968).
    - ii. Units may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services.
    - iii. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
    - iv. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
    - v. Occupancy shall not be restricted to youth under 18 years of age.
    - vi. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.

- vii. The bedrooms and/or units shall comply with UHAC with the following exceptions:
  - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing, and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
  - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- viii. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.
- ix. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- x. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
  - (a) An Affirmative Marketing Plan in accordance with D1 above; and
  - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- xi. The sponsor/owner shall complete annual monitoring as directed by the MHL.

#### **G. Extension of Controls.**

The Fair Housing Act permits credit for extension of controls and UHAC establishes standards for this mechanism. Extension of Controls Program shall be implemented in accordance with UHAC.

- a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, UHAC, including the following:
  - (a) The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits.
  - (b) The affordability controls for the unit measured from the date that the initial certified household takes title, are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;

- (c) The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
- (d) If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
- (e) The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.
- (f) The deed restriction for the extended control period shall be filed with the County Clerk.

#### **H. Regional Income Limits.**

1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
2. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

#### **I. Maximum Initial Rents And Sales Prices.**

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income.
4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at

least two different prices for each bedroom type when the number of low- and moderate-income units permits.

6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
  - a. A studio or efficiency unit shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household;
  - c. A two-bedroom unit shall be affordable to a three-person household;
  - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
  - a. A studio or efficiency unit shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
  - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
  - d. A three-bedroom unit shall be affordable to a four and one-half person household;
9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30

percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.

11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

**J. Affirmative Marketing.**

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 3 and is required to be followed throughout the period of deed restriction.
3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
  - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
  - b. There shall be a regional preference for all households that live and/or work in Housing Region 3 comprising Somerset, Hunterdon, and Clark Counties.
  - c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
  - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted

units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.

4. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

**K. Selection of Occupants of Affordable Housing Units.**

1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

**L. Occupancy Standards.**

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
  - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;

- b. Provide a bedroom for every two adult occupants;
- c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
- d. Avoid placing a one-person household into a unit with more than one bedroom.

**M. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

1. The initial control periods for restricted ownership units shall be for a period of at least 30 years and in accordance with the UHAC , as may be amended and supplemented, with the Township reserving the right to extend the affordability control period for an additional period of time thereafter.
2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of at least 10 years (crediting towards present need only).
3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
  - a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
  - b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
  - c. Notwithstanding the foregoing, nothing herein is intended to eliminate the right of a municipality with a 95/5 unit, which allows the municipality to permit the unit to be sold at fair market value and to capture 95 percent of the differential to be used for affordable housing.
6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
7. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market

value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

9. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

**N. Price Restrictions for Restricted Ownership Units and Resale Prices.**

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
  - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
  - b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C. 5:80-26.7.
    - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
    - ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
  - c. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
    - i. those that render the unit suitable for a larger household or the addition of a bathroom.
    - ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
  - d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed

subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**O. Buyer Income Eligibility.**

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance

and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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

**P. Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

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

**Q. Control Periods for Restricted Rental Units.**

1. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432, and amended December 20, 2004, 36 N.J.R. 5713 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated, with the Township reserving the right to extend the affordability controls for an additional period of time in accordance with the Act and UHAC.
2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.

4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
6. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
7. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - a. Sublease or assignment of the lease of the unit;
  - b. Sale or other voluntary transfer of the ownership of the unit;
  - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
  - d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

**R. Rent Restrictions for Rental Units; Leases and Fees.**

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
2. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.
3. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
  - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.

6. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

**S. Tenant Income Eligibility.**

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - c. The household is currently in substandard or overcrowded living conditions;
  - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

**T. Municipal Housing Liaison.**

1. The Municipal Housing Liaison shall be approved by municipal resolution.

2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
  - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
  - b. The oversight of the Affirmative Marketing Plan and affordability controls.
  - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
  - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
  - e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
  - f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
  - g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
  - h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
  - i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
  - j. Listing on the municipal website contact information for the MHL and Administrative Agents.

#### **U. Administrative Agent.**

1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
2. The fees for administrative agents shall be paid as follows:
  - a. Administrative agent fees related to rental units shall be paid by the developer/owner.
  - b. Administrative agent fees related to initial sale of units shall be paid by the developer.
  - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home. Single-family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the administrative agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the administrative agent.

- d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
  4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
    - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
    - b. Affirmative marketing:
      - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
      - ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
    - c. Household certification.
      - i. Soliciting, scheduling, conducting and following up on interviews with interested households.
      - ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
      - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
      - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
      - v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
      - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
    - d. Affordability controls.
      - i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
      - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County

Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.

- iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
  - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- e. Records retention.
- i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
  - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- f. Resales and re-rentals.
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
  - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.
- i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
  - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
  - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
  - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.
- i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
  - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in

any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

- iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
  - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
  - v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

**V. Responsibilities of The Owner of a development containing affordable units.**

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
  - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
  - b. The total number of units in the project and the number of affordable units.
  - c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
  - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
  - e. A projected construction schedule.
  - f. The location of any common areas and elevators.
  - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
2. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
  - a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing

address, and email address of the administrative agent to whom complaints of excess rent can be issued.

- b. Provide to the administrative agent a description of any applicable fees.
  - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
  - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
  - e. Provide to the administrative agent a proposed form of lease for any rental units.
  - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
  - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
3. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
- a. Proposed pricing for all units, including any purchaser options and add-on items.
  - b. Condominium or homeowner association fees and any other applicable fees.
  - c. Estimated real property taxes.
  - d. Sewer, water, trash disposal, and any other utility assessments.
  - e. Flood insurance requirement, if applicable.
  - f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

#### **W. Enforcement of Affordable Housing Regulations**

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the

regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

- i. A fine of not more than \$200 per day or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
  - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the municipal Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
  - iv. All remedies at law and equity, including, but not limited to, injunctive relief and foreclosure.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
- a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
  - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period

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

- c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
  - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
  - e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.
  - f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall

presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
8. Appeals
  - a. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

#### **X. Waivers**

A waiver may be granted of any provision of this ordinance if it would advance the interests of low- and moderate-income households or if strict compliance would cause an unreasonable result.

#### **Y. General Qualifications**

The State only made the regulations available that impact this ordinance in December of 2025. Consequently, the Township reserves the right to review and amend this ordinance consistent with applicable law

## **SECTION II**

Article XIX Affordable Housing Development Fees are hereby repealed and replaced with the following, the entirety of which shall be contained in a new Chapter 66-2 entitled "Affordable Housing Development Fees":

### **A. Development Fees.**

#### **1. Purpose**

- a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

#### **2. Basic Requirements**

- a. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund. Approval of a Round 3 Spending Plan shall suffice to satisfy this requirement until such time as a Round 4 Spending Plan or subsequent amendments is/are approved.
  - a. The municipality shall not spend development fees until the court has approved a plan for spending such fees.
3. Residential Development Fees
- a. Imposed fees
    - i. 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. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
    - ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. 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 of 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
    - i. 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 an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality
    - ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage

shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

#### 4. Non-Residential Development Fees

##### a. Imposition of fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Within all zoning districts, non-residential 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 non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

##### b. Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

##### c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.

- d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
- f. Notwithstanding anything to the contrary, if there are any inconsistencies between these regulations and the Statewide Non-residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), the Act controls.

## 5. Collection Procedures

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on 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 tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
- d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the municipality 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 (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

#### 6. Appeal of development fees

- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. 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, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. 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, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### 7. Affordable Housing Trust Fund

- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality
  - ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - iii. Rental income from municipally operated units;
  - iv. Repayments from affordable housing program loans;
  - v. Recapture funds;
  - vi. Proceeds from the sale of affordable units; and

- vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
  - c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
  - d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
    - i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
    - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
    - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
    - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
    - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
    - vi. Revocation of compliance certification or a judgment of compliance and repose;
    - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
    - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
  - e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the 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; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share

Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.

- b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
  - c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
    - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
    - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
  - d. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.
9. Monitoring
- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### 10. Ongoing Collection of Fees

- a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- b. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

11. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

**SECTION III** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Union County Planning Board and all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63, if required.

**SECTION IV** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Clark for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Township Planning Board is directed to make and transmit to the Township Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Township Master Plan and recommendations regarding any inconsistencies and any other matters as the Board deems appropriate.

**SECTION V** This Ordinance shall be submitted to the Township Mayor, and the Mayor shall within ten (10) days after receiving the Ordinance, either approve the Ordinance by affirming the Mayor's signature thereto or return it to the Township Council by delivering it to the Township Clerk together with a statement setting forth the Mayor's objections thereto or any item or part thereof. The Ordinance or any item or part thereof shall not take effect without the Township Mayor's approval, unless the Mayor fails to return the Ordinance to the Township Council within ten (10) days after it has been presented to the Mayor, or unless the Council upon reconsideration thereof on or after the third day following its return by the Mayor shall by a vote of two-thirds of the Members of the Council resolve to override the Mayor's veto pursuant to N.J.S.A. 40:69A-41.

**SECTION VI** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Township Mayor pursuant to N.J.S.A. 40:69A-41; (3) publication in accordance with the laws of the State of New Jersey; and filing of the final form of adopted Ordinance by the Township Clerk with (a) the Union County Planning Board pursuant to N.J.S.A.40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

**SECTION VII**

All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION VIII**

If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

**SECTION IX**

This ordinance shall take effect upon its passage and publication, as required by law.

Effective Date: April 8, 2026

**ATTEST:**

  
\_\_\_\_\_  
**EDITH L. MERKEL, RMC**  
Township Clerk

**APPROVED:**

  
\_\_\_\_\_  
**FRANK G. MAZZARELLA**  
Council Vice President

  
\_\_\_\_\_  
**ANGEL ALBANESE**  
Mayor

Ord26/2-17 26-09AffordableHousingandDevelopmentFeeOrd

		Motion to	Second	Motion to	Second				
		Introduce		Adopt		Aye	Nay	Abstain	Absent
	Hoff		✓		✓	✓			
	Hund			✓		✓			
<input checked="" type="checkbox"/>	Adopted					✓			
<input type="checkbox"/>	Adopted as Amended					✓			
<input type="checkbox"/>	Defeated	✓							✓
<input type="checkbox"/>	Tabled					✓			
<input type="checkbox"/>	Withdrawn								✓
	Entire Council								
	<b>TOTAL</b>					5			2

INTRODUCED: February 17, 2026

PUBLISHED IN: February 19, 2026, The Leader and Township Website [www.ourclark.com](http://www.ourclark.com)

PUBLIC HEARING AND ADOPTION: March 13, 2026

PUBLISHED IN: March 13, 2026, Township Website [www.ourclark.com](http://www.ourclark.com) (P.L. 2025 c. 72)

EFFECTIVE DATE: April 8, 2026

State of New Jersey)  
County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Ordinance 26-09 as adopted at a Special Meeting of the Township Council held on March 13, 2026.

  
Edith L. Merkel, Township Clerk  
Date: March 13, 2026



# Exhibit 5

**TOWNSHIP OF CLARK  
COUNTY OF UNION, NEW JERSEY  
RESOLUTION NO. 26-91  
MARCH 13, 2026**

**TOWNSHIP OF CLARK, COUNTY OF UNION, STATE OF NEW JERSEY  
RESOLUTION ADOPTING AN OPERATING MANUAL PREPARED BY CGP&H**

**WHEREAS**, the Township of Clark (“Township”) is committed to administering affordable housing programs in compliance with applicable State of New Jersey statutes and regulations, including but not limited to the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., as may be amended from time to time; and

**WHEREAS**, the New Jersey Housing and Mortgage Finance Agency (HMFA) adopted regulations on November 6, 2025 that were published on December 15, 2025 that amended the UHAC regulations and made additional changes to the regulations governing affordable housing; and

**WHEREAS**, the Township has appointed CGP&H to serve as its Administrative Agent; and

**WHEREAS**, CGP&H has prepared an manual to implement the rehab component of its Housing Element and Fair Share Plan, attached hereto as Exhibit A, spelling out its procedures for implementing the rehabilitation component of its Plan in accordance with the law generally and the new HMFA regulations in particular; and

**WHEREAS**, the Township Council finds that the manual will promote transparency, uniform application of program requirements, and ongoing regulatory compliance, and that it is in the best interest of the Township to formally adopt said manual; and

**WHEREAS**, adoption of the manual will authorize its use by the Township’s Administrative Agent, Municipal Housing Liaison, Administration and other representatives of the Township.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clark, in the County of Union, State of New Jersey, that:

1. The Township hereby adopts the manual attached hereto.
2. The Township hereby directs its Administrative Agent, Municipal Housing Liaison, Administrator and other representatives to use this manual for guidance in conjunction with the affordable housing provided in town.
3. The Township Council authorizes the Municipal Housing Liaison and/or the Administrative Agent, in consultation with the Township’s Affordable Housing Attorney, to time to maintain compliance with applicable law and regulatory guidance by (a) making non-substantive changes to the Operating Manual from time; and (b) by making substantive revisions to the manual only after review and approval by the Township.

4. The Township Clerk shall maintain a copy of the adopted Operating Manual, including the current version and any subsequent amendments, on file in the Clerk's Office and make it available for public inspection during normal business hours. A digital copy may be posted on the Township's official website for public access.
5. This Resolution shall take effect immediately upon adoption.

ATTEST:

APPROVED:

  
 EDITH L. MERKEL, RMC  
 Township Clerk

  
 FRANK G. MAZZARELLA  
 Council Vice President

Res26/3-13 91 Adopt Housing Rehab Program Manual

			Motion	Second	Aye	Nay	Abstain	Absent	
		Hoff			✓				
		Hund		✓	✓				
<input checked="" type="checkbox"/>	Adopted	Mazzarella			✓				
<input type="checkbox"/>	Adopted as Amended	Minniti			✓				
<input type="checkbox"/>	Defeated	O'Connor							
<input type="checkbox"/>	Tabled	Toal	✓		✓				✓
<input type="checkbox"/>	Withdrawn	Smith							✓
		Entire Council							
		TOTAL			5				2

State of New Jersey)  
 County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Resolution 26-91 as approved at a Regular Meeting of the Township Council held on March 13, 2026.

  
 Edith L. Merkel, Township Clerk  
 Date: March 13, 2026

# Home Improvement Program

Policies and Procedures Manual

For Owner-Occupied and Rental Units

*Township of Clark*  
*New Jersey*

Created March 16, 2017

Amended March 6, 2026: Fourth Round and Funding Limits

Prepared by:



**CGPH**

Community Grants, Planning & Housing

*Good People. Great Results.™*

101 Interchange Plaza, Suite 301

Cranbury, NJ 08512

609/664-2769 [www.cgph.net](http://www.cgph.net)

# Home Improvement Program

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# Home Improvement Program

## *Policies & Procedures Manual*

### I. INTRODUCTION

The purpose of this document is to establish policies, guidelines and procedures which will govern the Clark Home Improvement Program (CHIP). The CHIP was created by the Township to assist properties occupied by very low, low and moderate income households to correct all existing interior and exterior health, safety and code violations in conformity with the standards of the New Jersey State Housing Code, N.J.A.C. 5:28 and the Rehabilitation Subcode, N.J.A.C. 5:23-6. The CHIP is guided by Uniform Housing Affordability Controls (UHAC) promulgated by the New Jersey Housing and Mortgage Finance Agency at N.J.A.C.5:80-26 et seq, the amended Fair Housing Act at N.J.S.A. 52:27D-301 et seq., the Fair Housing Act Regulations promulgated by the Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., and statutorily upheld existing regulations of the former Council on Affordable Housing ("COAH") at N.J.A.C. 5:93 and 5:97. The HIP is subject to all laws, regulations, ordinances, and codes of the New Jersey Department of Community Affairs (DCA) and the Municipality. The Municipality contracted with Community Grants, Planning & Housing LLC (CGP&H), a private consulting firm specializing in the implementation of publicly-funded housing rehabilitation programs, to manage and administer the HIP.

This manual reflects changes to UHAC that went into effect in December 2025. These UHAC changes impact every aspect of the Administration of affordable units from income qualification to deed restrictions and there are many outstanding questions about the applicability of the rules and how to implement the regulations. Future changes to the manual will be required after the Department of Community Affairs (DCA) launches its educational program for Administrative Agents. In addition, the New Jersey Housing and Mortgage Finance Agency (NJHMFA) has indicated that they will be publishing and an updated "Understanding UHAC" manual that will provide additional clarification to Administrative Agents on the updated regulations. This manual does not include all provisions of UHAC, and UHAC is a companion document to this manual.

The program's primary funding source will be municipal affordable housing trust funds. If the funds prove insufficient and the Township cannot secure funding from a non-municipal source, the Township has adopted a resolution to bond or fund through some other legal means. If and

when the funding source changes, the manual will be updated to reflect the change as well as changes to regulation requirements, if any.

### **A. Fair Housing and Equal Housing Opportunities**

It is unlawful to discriminate against any person making application to participate in the housing rehabilitation/home improvement program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.



For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or <https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home>. Fair Housing and Equal Housing Opportunities apply to both owner and tenant applications.

## **II. ELIGIBLE PARTICIPANTS**

### **A. Program area**

The Clark Home Improvement Program is a Township wide program currently aimed at scattered site housing rehabilitation of housing occupied by very low, low and moderate income households throughout the Township of Clark.

### **B. Categories of Participants**

Both owner-occupied and renter-occupied housing units are eligible to receive funding for rehabilitation if it is their primary residency, the occupants of the units are determined to be very low, low or moderate-income households, and the units are determined to be substandard. Owners of rental properties do not have to be income eligible. If a structure contains two or more units and an owner, who is not income eligible, occupies one unit, funding may be provided for the rehabilitation of the rest of the units if income-eligible households occupy those units. Rents must be affordable to low- or moderate-income households.

For housing units which received past affordable housing state credit, the following rules for repeat assistance shall apply.

- An owner of a previously rehabbed unit may apply for current rehab assistance if the unit was rehabbed in a prior Round and the affordability period has expired.

- An owner of an existing affordable deed restricted ownership unit with an active deed restriction that is currently meeting a Round 1, Round 2 or Round 3 credit may apply for current rehab assistance for the municipality to obtain a Round 4 present need credit.
- Housing units which the municipality receives an affordable housing credit in Round 4 in any category are not eligible for additional assistance from the municipality's housing rehabilitation program during Round 4.
- Essentially, a municipality cannot receive double credits on a unit within the same affordable housing Round.

Notwithstanding anything to the contrary, nothing herein is intended to prevent municipalities from access to trust fund monies to ensure deed restricted units are safe and habitable when the controls are being extended.

### **C. Income Limits**

Household income is defined as the combined annual income of all family members over 18 years of age including wages, Social Security, disability insurance, unemployment insurance, pensions, dividend/interest income, alimony, etc. Each unit's total household income must fall within or below the State's moderate income limits based on family size.

Household income is defined as the combined annual income of all family members over 18 years of age including wages, Social Security, disability insurance, unemployment insurance, pensions, dividend/interest income, alimony, etc. Each unit's total household gross income must fall within the State's moderate-income limits based on family size. Maximum income limits are provided annually by NJHMFA for each of the six Affordable Housing regions. The income limits used for this program are the applicable regional income limits for the region in which the Municipality is located. Current income limits are available at <https://nj.gov/dca/hmfa/about/uhac>.

### **D. Application Selection**

The program will process new applicants added to the wait list/applicant pool on a first-come, first served basis, to qualified applicants. Priority will be given to homeowners with less than \$200,000 in liquid assets if there is a wait list. Assets in federally recognized retirement accounts do not apply to the liquid asset limit. The CHIP will establish the wait list/applicant pool from the program marketing efforts identified in Section IX of this manual.

***Emergency Processing Order***

Properties with safety and/or health hazards, confirmed/certified as an emergency by the municipal Construction Official or Health Department, can by-pass the first-come, first served process however they must meet all the other program requirements including bringing the unit up to code.

The Program Administrator shall determine that an emergency situation exists based on the following:

- A. The repair problem is an immediate and serious threat to the health and safety of the building's residents, and
- B. The problem has been inspected and the threat verified by the appropriate local building inspector and/or health official

Depending on the type and extent of the emergency and with the homeowner's permission, the Program may by-pass the standard bid process outlined in *Section V subsection Contractor Selection* to expedite the bid/contractor selection process. Instead, the Program may have a proven qualified contractor familiar with the Program present at the initial property inspection with the homeowner to count as the contractor's site visit. This will allow for a quick turn-around on emergency scope of work to be contracted on a single quote basis. To be awarded the emergency work, the contractor's quote must be determined to be a reasonable cost based on the Program Inspector's cost estimate and the contractor must commit to a tight timeline to resolve the emergency situation. This emergency process may apply to heavily leaking roofs, inoperable heating systems during the winter months, immediately hazardous electrical systems and/or blocked sewer lines unresolvable to unclog via a simple service call for under \$1,000.

Please note that the loan agreement will state that if the homeowner takes the emergency funds to abate the safety/health hazards and then subsequently decides to voluntarily remove themselves from participation in the Township's rehabilitation program to complete the non-emergency substandard code violation components of their project, essentially negating any opportunity for the municipality to gain credit for a fully rehabilitated home for this unit, those public funds used for the emergency must be immediately due and payable back to the Township.

To address this potential, any homeowner receiving emergency funds will also be required to execute a statement indicating that the Township will place a lien on the property assisted for the Township to recapture the emergency funds, to be repaid with interest, based on the

monthly average mortgage loan commitment rates at the time of closing in the event of noncompliance.

### III. ELIGIBLE ACTIVITIES

#### A. Eligible Improvements

The purpose of the program is to bring substandard housing up to code. To qualify for participation in the program, the condition of each home must be certifiable as being "substandard" as defined in N.J.A.C. 5:93-1.3.

In other words, at least one of the following major systems must be in need of replacement or substantial repair:

- Roof
- Plumbing (including wells)
- Heating
- Electrical
- Sanitary plumbing (including septic systems)
- Load bearing structural systems
- Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

The related work may include, but not be limited to the following:

- Lead paint remediation
- Interior trim work,
- Interior and/or exterior doors
- Interior and/or exterior hardware
- Interior stair repair
- Exterior step repair or replacement
- Porch repair
- Wall surface repair
- Painting
- Exterior rain carrying system repair

**B. Ineligible Improvements**

Work not eligible for program funding includes but is not limited to luxury improvements (improvements upgrades/higher than mid-grade and/or strictly cosmetic), carpets, solar panels, generators, additions, conversions (basement, garage, porch, attic, etc.), repairs to structures separate from the living units (detached garage, shed, barn, etc.), furnishings, pools and landscaping. If determined unsafe, stoves may be replaced. The replacement or repair of other appliances is prohibited. The cost of removing any illegally converted living space (e.g., illegal bedrooms in the basement) are not eligible for assistance.

Rehabilitation work performed by property owners shall not be funded under this program.

**C. Rehabilitation Standards**

Funds are to be used for work and repairs required to make the unit standard and abate all interior and exterior violations of the New Jersey State Housing Code, N.J.A.C. 5:28 and the Rehabilitation Subcode, N.J.A.C. 5:23-6, (of which the more restrictive requirements will apply), and remove health and/or safety hazards; and any other work or repairs, including finishing and painting, which are directly related to the above listed objectives. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

Municipal rehabilitation investment for hard costs shall average at least \$10,000 per unit, and include the rehabilitation of at least one major system, as previously defined under eligible improvements.

**D. Certifications of Substandard/Standard**

The Program Building Inspector will inspect the property to determine which systems, if any, are substandard in accordance with sub-section A above and issue a Certification of Substandard. Upon program construction completion, all code deficiencies noted in the inspection report must be corrected and rehabilitated units must be compliant with the standards prescribed in sub-section C above upon issuance of a municipal certificate of completion/approval.

## IV. FUNDING TERMS FOR OWNER-OCCUPIED AND INVESTOR-OWNED UNITS

Funding will be provided on the following terms:

### A. Terms and Conditions for Owner Occupied Units

Table 1 Owner-Occupied Single Family Home Terms & Conditions

Owner-Occupied Single-Family Unit Terms and Conditions of Loan	
Minimum Loan Amount	The municipality may rehabilitate substandard units that require less than \$10,000 of work, provided the municipal rehabilitation activity shall average at least \$10,000 per unit.
Maximum Loan Amount	\$25,000 per unit
Interest Rate	0% (No monthly payments)
Payment Terms:	Principal repaid upon title transfer.
Mechanism for Securing Loan	Mortgage and Mortgage Note recorded against property

When the owner decides to sell the property, transfer title, or if the owner should die, the owner, heirs, executors or legal representatives must repay the loan upon a title change. Rental of house is allowable under certain conditions subject to approval by the Administrative Agent.

Exceptions to Loan Repayment Terms above during the lien period:

1. If the loan transfers due to inheritance by a Class A beneficiary who will take occupancy upon death of Program mortgagee/Borrower and assume the lien (income eligibility not a requirement); or if by inheritance by a qualified income eligible non-Class A beneficiary, or
2. If the house is sold at an affordable price pursuant to UHAC to someone who can be qualified as income eligible, takes occupancy and agrees to assume the program lien, or
3. If the house is sold at an affordable price pursuant to UHAC to an investor who assumes the lien and also signs a deed restriction for the remaining duration of the affordability period to rent the dwelling at the affordability controls restricted rental rate and according to the affirmative marketing requirements for re-rentals. When this occurs, the

Township's Administrative Agent will be responsible for monitoring compliance over that unit.

When a trustee of a trust deed ownership of a single-family property is the applicant occupant of the property, the owner-occupied category terms apply.

### **B. Terms and Conditions for Owner-Occupied Multi-Family Properties including Tenant Units**

Table 2 Owner-Occupied Multi-Family Home Terms & Conditions

<b>Owner-Occupied Multi-Family Including Tenant Unit(s) Terms and Conditions of Loan</b>	
<b>Minimum Loan Amount</b>	The municipality may rehabilitate substandard units that require less than \$10,000 of work, provided the municipal rehabilitation activity shall average at least \$10,000 per unit
<b>Maximum Loan Amount</b>	\$20,000 per unit
<b>Interest Rate</b>	0% (No monthly payments)
<b>Payment Terms</b>	Principal repaid upon title transfer. Original Principal is immediately due if not in compliance with rental affordability controls. Rental restrictions on the rental unit(s) transfer with property. See Restrictions below.
<b>Mechanism for Securing Loan</b>	Mortgage, Mortgage Note and Deed Restriction recorded on property

The assisted housing unit(s) must be occupied by and affordable to a household that is certified as an income eligible household as per either the latest Income Limits by Region, or in compliance with the municipality's Settlement Agreement and Court Order, whichever is applicable.

The owner will execute a Mortgage, Mortgage Note, and Deed Restriction, the latter which guarantees the continued availability of the rental unit to low or moderate income households for the terms of the ten-year deed restricted affordability period. The affordability terms for the rental units do not expire even in the event that the owner sells the property, transfers title to the property, or dies within the ten-year program deed restricted affordability period.

Moreover, if Program funds were expended on the owner-occupied unit, and the homeowner sells, transfers title, dies or is not in compliance during the ten-year deed restricted affordability period, unless ownership is transferred to another low or moderate income homeowner, any

Program funds expended on work done on the owner's individual unit along with a pro-rata portion of the shared improvements must be fully repaid to the Township and used to rehabilitate another housing unit.

**Additionally, for rental units in a multi-family owner-occupied home:**

For tenant units, the maximum permitted rent is pursuant to UHAC and subject to annual adjustment. If a unit is vacant upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the Deed Restriction shall require the unit to be rented to a very low, ow- or moderate- income household at an affordable rental price and will be affirmatively marketed by the Township designated Administrative Agent, in accordance with the Township of Clark's Affordable Housing Affirmative Marketing Plan. Landlords are responsible to pay income certification fees and affirmative marketing cost for re-rentals.

For information regarding future rental increases: Please refer to Section VIII of this manual. When a trustee of a trust deed ownership of a multi-family property is the applicant occupant of the property, the multi-family category terms apply.

**C. Terms and Conditions for Investor-Owned Rental Units**

Table 3 Investor-Owned Terms & Conditions

<b>Investor-Owned Units Terms and Conditions of Loan</b>	
<b>Minimum Loan Amount</b>	The municipality may rehabilitate substandard units that require less than \$10,000 of work, provided the municipal rehabilitation activity shall average at least \$10,000 per unit
<b>Maximum Loan Amount</b>	\$20,000 per rental unit
<b>Interest Rate</b>	0% (No monthly payments)
<b>Payment Terms</b>	Owner pays 25% of rehab cost at construction agreement signing. Municipal loan to landlord will be repaid upon first transfer of property following completion of ten-year deed restriction. Rental restrictions transfer with property during the ten-year deed restriction period. See restrictions below.
<b>Mechanism for Securing Loan</b>	Mortgage, Mortgage Note and Deed Restriction recorded against property

The ten-year affordability controls against the property will be recorded in a Deed Restriction. The property owner agrees to abide by the rental affordability controls for the life of the Deed Restriction. Additionally, the following conditions apply:

The assisted housing unit(s) must be occupied by and affordable to a household that is certified as an income eligible household as per either the latest Income Limits by Region, or in compliance with the municipality's Settlement Agreement and Court Order, whichever is applicable and as designated by unit in the Deed Restriction. The maximum permitted rent is determined by the Township's Administrative Agent and is pursuant to UHAC and subject to annual adjustment.

Throughout the ten year affordability controls, if a rental unit is vacant upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the Deed Restriction shall require the unit to be rented to a low- or moderate- income household(as designated by unit in the Deed Restriction) at an affordable price and will be affirmatively marketed in accordance with the Township of Clark Affordable Housing Affirmative Marketing Plan by the Townships' current Administrative Agent at the rates and terms defined within that Agreement. Landlords are responsible to pay income certification fees and affirmative marketing costs for re-rentals.

The owner will execute a Deed Restriction which will guarantee the continued availability of the unit to income eligible households for the terms of the ten-year lien affordability period. The owner will also execute a Mortgage and Mortgage Note, requiring loan repayment at zero percent interest at the first transfer of ownership after the ten-year deed restriction is lifted.

Throughout the ten-year deed restrictive period, the affordability terms do not expire even if the owner sells the property, transfers title to the property, dies, or rents to other than very low, low or moderate income renters, before the terms of the lien expire. Life estate deed ownership falls under the investor category. Additionally, when a trustee of a trust deed ownership is not the applicant occupant of the property, the investor terms apply.

Group Homes are ineligible because they are not separate units.

#### **D. Special Needs Waivers for Higher Cost Rehabilitation Projects**

In cases of housing rehabilitation need more than the program cap:

- The Program will get confirmation of whether the homeowner can contribute personal funding.

- If needed, the Program will attempt to partner with other possible funding sources such as the Low-Income Home Energy Assistance Program (LIHEAP) and/or the Union County Multi-Jurisdictional Housing Rehab Program.
- The Program reserves the right to make a request to the Township for an exception, having the Township allow the expenditure of up to an additional \$5,000 per unit to address code violations. The Township may consider other situations for special needs waivers. Individual files will be reviewed on a case-by-case basis. Upon Program and Township approval, a Special Needs Funding Limit Waiver may be issued.
- If no viable options, the case will have to be terminated.

Investor units are ineligible for special needs waivers.

#### **E. Use of Recaptured Program Funds**

All recaptured funds will be deposited into a Clark affordable housing trust fund in accordance with N.J.A.C. 5:93-8.15.

## **V. IMPLEMENTATION PROCESS**

### **A. Application/Interview**

For each prospective applicant, this process starts with a homeowner either submitting an online preliminary application or the Housing Rehabilitation Specialist pre-qualifies the interested homeowner by phone, whichever is the homeowner's preference. The information is entered in the program applicant pool/waiting list. If the homeowner passes the preliminary criteria review, program information, guidelines, and an application package will be mailed to the applicant when their name is reached on the program's waiting list.

Each prospective applicant is to complete the application and return it to the Housing Rehabilitation Specialist, along with the required verification documents. Upon receipt of the completed application package, a case file will be opened for the applicant and a case file number will be assigned to the unit. The Housing Rehabilitation Specialist will be available via a direct phone line to assist applicants during this and all other phases of the process. Additionally, as needed, a Housing Rehabilitation Specialist will be available for face to face prescheduled appointments. Once a case is assigned a number, the cases are processed in the order of receipt of completed applications.

**B. Eligibility Certification**

To be eligible for assistance, households in each unit to be assisted must be determined to be income eligible. All adult members of each household, 18 years of age and older, must be fully certified as income-eligible before any assistance will be provided by the Program.

The Program staff shall determine household income in accordance with the procedure for calculating annual income at the time of household application, stipulated at 24 CFR 5.609, as it was in effect on December 20, 2024, and described in Chapter 5 of HUD [page=2782] Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, which is available at:

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/hsg/4350.3](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3).

In the future, the Program Staff shall accept household income determinations made within the previous 180 days by another administrative agent that has successfully completed DCA's Education Program. This is not applicable at this time because the Education Program has not been made available and therefore no Administrative Agents have successfully completed the program.

**C. Other Eligibility Requirements**

Applicant to submit the following in the application package:

- Copy of current homeowner's insurance declarations page (not the policy or receipt)
- Proof of flood insurance, if property is located in a flood zone
- Copy of recorded deed to the property to be assisted
- Proof of separate residency if a deed co-holder resides at another location (copy of driver's license, etc.)
- If deed holder is a widow or widower, copy of spouse Death Certificate
- Proof that all mortgage payments are current and, when applicable, Homeowner Association (HOA) Fees are paid current
- Copy of any and all other liens recorded against the property
- Personal identification (a copy of any of the following: Driver's License, Passport, Birth Certificate, Social Security Card, Adoption Papers, Alien Registration Card, etc.)
- Original of signed Eligibility Release form

**D. Requirements of Utilities & Taxes Paid Current**

All applicants' property tax and sewer accounts must be paid current. The Program reserves the right to make an exception to the requirement of paid up tax and/or sewer accounts. Individual

files will be reviewed on a case-by-case basis. Upon approval by the appropriate municipal officials and the Program, a Special Needs Eligibility Requirements Waiver may be issued.

#### **E. Sufficient Equity and Sufficient Carrying Cost**

Additionally, to be determined eligible, there must be sufficient equity in the home to cover the program lien. In other words, the market value of the house must be greater than the total of the existing liens and anticipated program lien combined. For the sake of this rule, the market value of the home will be calculated using the municipality's assessed value divided by the equalization ratio. All existing property liens (mortgage, home equity loan, etc.) are then deducted from the calculated house value to determine the current property equity. The Township may consider a Special Needs Waiver approved by the municipality on a case-by-case basis for limited equity, but not for negative equity. Additionally, the applicant's income shall be sufficient to meet the carrying costs of the unit or the homeowner is to demonstrate how the unit's carrying costs are funded. This will be reviewed on a case-by-case basis. Upon approval by the appropriate municipal officials and the Program, a Special Needs Eligibility Requirements Waiver may be issued.

#### **F. Eligibility Scenarios of Multi-Family Structures**

Several possibilities exist concerning the determination of eligibility in a multi-family structure.

**Scenario 1.** The Program Administrator determines that the owner is income eligible and the renters in each unit are income eligible. In this case, all of the units are eligible for rehabilitation.

**Scenario 2.** The Program Administrator determines that the owner is income eligible, but the renters are not. In this case, only the landlord's unit is eligible for rehabilitation. If a home improvement is undertaken which affects all the units in the house (e.g., replacement of a roof), the HIP will only cover a prorated percentage of the cost. For example, in a two-family home with units of approximately equal size, only 50% of the cost of roof replacement will be covered. Where units differ by more than 10% in size, the proration should be based on percentage of square footage within each unit compared to the total interior square footage of all other units in the structure. Shared common areas should not be counted in the denominator for the pro rata calculation.

**Scenario 3.** The Program Administrator determines that the owner is not income eligible, but the renters are. In this case, the rental units are eligible for rehab, but the owner's is not. If a rehab activity is undertaken which affects all of the units in the house (e.g., replacement of roof), the HIP will only cover a prorated percentage of the cost. For example, in a four -family home, only 75% of the cost of roof replacement would be covered. Where units differ in size, the proration is based on percentage of square footage.

If any of the conditions above apply to a particular applicant's case, CGP&H sends correspondence that explicitly identifies which of the units is eligible for rehabilitation, as well as specifies any applicable percentage of the hard costs of rehabilitation between the program and the homeowner. The homeowner's monetary contribution is to be paid prior to the start of construction at the preconstruction conference in the form of a money order or certified check made payable to the contractor. The payment is held by the program until the work is satisfactorily completed, at which time the program will release the payment to the contractor.

***Investor Properties:***

The Program Administrator determines the tenant income for eligibility. The owner's income is not applicable for eligibility review because the owner does not occupy the property getting repair assistance via the Program. Instead, the owner of an investment property pays a set required direct contribution toward construction cost rather than the above prorated portion for owner-occupied multiple family properties. Refer to Section IV-C.

**G. Eligibility Certification**

After the Program Administrator has determined that the household is income eligible and meets all other eligible requirements, the Program Manager will complete and sign the Eligibility Certification. This certification is valid for 180 days starting from date of eligibility certification. A Construction Agreement must be signed within this time period. If not, the Program Administrator must reevaluate the household's eligibility.

After the household is certified as income eligible, the Homeowner/Program Agreement will be executed between the owner and the program.

If an applicant is determined ineligible, for any reason, the Program will issue a Notice of Ineligibility explaining the reason for the ineligibility determination and case termination.

**L. Housing Inspection/Substandard Certification/Work Write Up/Cost Estimate**

The Program Inspector will perform a comprehensive inspection to determine what work items are necessary to bring the home up to code, as identified in section III C. Photos will be taken at the comprehensive inspection to document existing conditions. As a result of the comprehensive inspection, the Program Inspector will prepare a work write-up and cost estimate. All repairs needed to bring the home up to code will be identified. This work write-up will include a breakdown of each work item by category and by location in the house. The work write-up will contain information as to the scope of work and specifics on materials such as type, quantity and cost. A total cost estimate will be calculated for each housing unit. The HIP's policy is to create Work Write-Ups and Cost Estimates that fall within the HIP funding caps. In

unusual hardship cases and when the cost to correct all code violations exceeds the program funding limit, the HIP will seek the homeowner's monetary contribution. If the homeowner is unable to contribute funds or obtain funds from another funding source, the HIP will request additional funds from the Township of Clark. If the unit cannot be brought up to code with the combination of funds available, the unit may not proceed.

For houses built prior to 1978, refer to Section VII Lead Based Paint (LBP).

### **M. Contractor Selection**

The homeowner, with the approval of the Program Inspector, will select the contractor. The Housing Rehabilitation Specialist will provide the homeowner with a copy of the work write up and the Program contractor list. The homeowner will complete the Work Write-Up Review Form indicating review and approval of the work write-up and advising of any contractors currently on the Program contractor list that the homeowner does not wish to have notified of the availability of the bid package. If the homeowner wishes to solicit a bid from a contractor not currently on the Program contractor list, the homeowner will provide the contractor's name, address and telephone number on the Work Write-Up Review Form. Any contractors that have not been previously qualified are eligible to participate but must submit their qualifications as well as their bid in the bid package.

The Housing Rehabilitation Specialist will notify at least three (3) currently active contractors that a bid package for the property is available. Each contractor must contact the Housing Rehabilitation Specialist to obtain a full bid package and the contractor must submit a bid to the Housing Rehabilitation Specialist by the submission deadline (usually within three (3) weeks of the date of the bid notification letter). All submitted bids will be opened and recorded by the Program Administrator at a meeting open to all interested parties.

The submitted bids will be reviewed by the homeowner and the Program Inspector. Generally, the lowest responsible bid from a qualified contractor will be chosen. If the homeowner selects a higher bid, he/she must pay the difference between the chosen and the lowest responsible bid. Contractors will be notified of the results of the bidding within one (1) week of the date the homeowner makes his/her contractor selection.

The Housing Rehabilitation Specialist will provide the Township Business Administrator with the executed Bid Tabulation and contractor bid sheets to demonstrate contractor award decision. Contractor award is passed via resolution by Township Council. To be placed on the Council meeting agenda, the documents need to be received a week in advance.

**N. Pre-Construction Conference/Contract Signing**

Upon receipt of the Township contractor award resolution, the Program Inspector will schedule and conduct a pre-construction conference with the homeowner and contractor. Prior to the pre-construction conference the homeowner will be provided with copies of the loan documents and the Construction Agreement and the contractor will be provided with a copy of the Construction Agreement for review. At the time of the pre-construction conference, the scope of work will once again be reviewed. The homeowner and contractor responsibilities will also be reviewed, as well as the program's construction procedures and program limitations. The homeowner and contractor will each sign the Construction Agreement and receive copies. The homeowner will sign and receive copies of the Mortgage and Mortgage Note in the amount of the HIP subsidy. For rental properties, the property owner will also sign the Deed Restriction.

If the homeowner is providing any funds for the rehabilitation of his/her home, those funds must be provided at the time of the pre-construction conference in the form of a certified check or money order made payable to the contractor. The check will be held by the Program and will be applied towards the contractor's first progress payment.

The contractor will be provided with information regarding the Lead-Based Paint Poisoning Prevention Act (4a.USC 483 1 (b)). The homeowner will be advised of the hazards of lead based paint in houses built prior to 1978 and provided with the EPA booklet Renovate Right. Both contractor and homeowner will each sign the respective Certifications. Additionally, for houses built prior to 1978, Section VII Lead Based Paint (LBP) applies.

Following the pre-construction meeting, the Housing Rehabilitation Specialist will provide the Township Business Administrator with 1) a copy of the first three pages of the Construction Agreement which includes identifying the homeowner, the property and the contractor, and an itemized price list of the work; and 2) the program scope of work for the Business Administrator to share with the Construction office to ensure the contractor makes application for the applicable permits. For each job, the Township's Construction office will notify the Housing Rehabilitation Specialist which permits are required to compare to the permit documentation later provided by the contractor.

It is the contractor's responsibility to ensure all required permits are applied for prior to the start of construction and, if applicable, at the time of any change orders.

The construction permitting process is handled by the municipality's Construction office.

**O. Initiate Township Voucher**

The Township will initiate the Township purchase order upon Township contractor award resolution, directly obtain the contractor's signature on the document and then submit the purchase order to the Housing Rehabilitation Specialist. The contractor's signed purchase order will be held by the Housing Rehabilitation Specialist until construction progress is sufficient to submit to the municipality for a contractor payment.

**P. Progress Inspections**

The Program Inspector will make the necessary inspections of the progress of property improvements. Inspections are necessary to ensure that the ongoing improvements coincide with the scope of work outlined in the work write-up. It is the contractor's responsibility to notify the Program Inspector when a minimum of 40% of the total contract work is completed. The Program Inspector will schedule the inspection with the homeowner, at which time the Program Inspector will also obtain verbal confirmation from the homeowner that the work is ready for inspection.

If work passes the satisfactory progress inspection, the Housing Rehabilitation Specialist will follow the procedures spelled out in Section V subsection *Payment Structure and Process* to process a contractor's progress payment request.

The Program Inspector will notify the contractor and the homeowner in writing of any work deficiencies discovered during the progress inspection. Work deficiencies must be corrected prior to the contractor's request for the next inspection.

For houses built prior to 1978, a work item marked *EPA RRP Rule* cannot be paid for until the contractor provides a post renovation report to the program. Refer to Section VII Lead Based Paint (LBP) for the EPA regulation.

**Q. Change Orders**

If it is determined during rehabilitation that a change from the original work write-up is required, a Program Change Order Authorization form must be completed and approved by the Homeowner, the Contractor, and the Program. The Housing Rehabilitation Specialist will forward the executed change order to the Township. The contractor will be notified by the Housing Rehabilitation Specialist of the results, and no change order work should be undertaken by the contractor until he has received a copy of the fully executed Change Order Authorization or the contractor risks non-payment for the change order work.

## R. Final Inspection

Prior to requesting a final inspection, it is the contractor's responsibility to:

- Properly close out all the permits and to provide proof of closed out permits to the Housing Rehabilitation Specialist via the municipal Certificate of Approval;
- Deliver to the homeowner a complete release of all liens arising out of the Construction Agreement, a receipt in full covering all labor, materials and equipment for which a lien could be filed or a bond satisfactory to the owner indemnifying owner against any lien; and
- Provide the homeowner with all applicable warranties for items installed and work completed during the course of the rehabilitation.

Once the contractor has provided the Housing Rehabilitation Specialist with all required job closeout forms, the contractor will be responsible to request the program's final inspection. The Program Inspector will schedule the final inspection with the homeowner, at which time the Program Inspector will also obtain verbal confirmation from the homeowner that the rehabilitation work has been completed and is ready for inspection. The Program Inspector will then conduct a final inspection to certify that the required property improvements are complete. The homeowner will be present during the final inspection and the contractor will be present if there are issues to resolve.

Construction progress on work line items will be inspected and considered for payment. If the work passes satisfactory final inspection, the Housing Rehabilitation Specialist will follow the procedures spelled out in Section V subsection *Payment Structure and Process* to process the contractor's final payment request.

For houses built prior to 1978, a work item marked *EPA RRP Rule* cannot be paid for until the contractor provides a post renovation report to the program. Refer to Section VII Lead Based Paint (LBP) for the EPA regulation.

If the Program Inspector identifies any work deficiencies during the final inspection, the Program Inspector will notify the contractor and the homeowner of the deficiencies in writing and the value of said deficiencies will be deducted from the final payment request. Work deficiencies discovered during the final inspection will require the Program Inspector to conduct a subsequent inspection upon contractor's correction of deficiencies. The Rehabilitation Program reserves the right to hold the contractor responsible to pay the cost of any additional inspections beyond the final inspection at a rate in accordance with the fee set forth in the program administration contract for prematurely requesting the final inspection with the work not 100% completely done in a workman-like manner. Additional inspections are

those in excess of the one progress inspection and the final inspection which are needed to inspect corrected deficiencies. The contractor must issue the failed final inspection penalty payment directly to CGP&H via a check prior to the program inspector scheduling and repeating the final inspection process. CGP&H will notify the municipality each time a penalty is levied.

The Program lien period will commence upon satisfactory completion of the final inspection. Photographs will be taken of the rehabilitated housing unit by the Program Inspector at the time of the satisfactory final inspection.

### **S. Payment Structure and Process**

The Township will issue all payments, which may be made according to the following schedule:

One progress payment (representing a minimum of 40% of total contract work completed) will be paid. Upon completion of one hundred percent (100%) of the rehabilitation work, the contractor is eligible for final payment of the contract price.

Upon a satisfactory program inspection, and confirmation from the Housing Rehabilitation Specialist that all contractor's documents have been submitted in accordance with program procedures, the Housing Rehabilitation Specialist will submit to the Township:

- Program's Request for Payment form with homeowner's and Program's written approval
- Contractor signed Township Purchase Order with payment amount identified
- Copy of change order, if one occurred
- Copy of contractor's business registration (only needed for contractor's first program job)

The Municipality retains the right to make payments to the contractor without homeowner approval should the homeowner become unavailable to sign the Program contractor payment form due to illness, absence or refusal to sign. In such instance, the Program shall make reasonable attempts to contact the homeowner. If such efforts are not successful within a two-week period from the final inspection date, the Program shall advise the Municipality, provide documentation of efforts to obtain homeowner approval, and may authorize contractor payment without homeowner sign-off, to not hold up payment rightfully due to the contractor.

The payment request is to be emailed to the Township Business Administrator. The Township will forward to the Housing Rehabilitation Specialist a copy of the executed payment to the contractor for case file records.

Upon job completion, the combined Township payments will total the Construction Agreement, including all applicable change order(s) if any, and minus homeowner contribution, if any. The

combined Township payments will also match the final Township Voucher amount. Progress and final payments will be made payable to the contractor.

#### **T. Standard Certification**

A Certificate of Approval issued by the municipal construction official at the time the contractor closes out the rehabilitation construction permits, will confirm the scope of rehabilitation work has been completed and that the housing unit is now up to code standard. The contractor is to provide the Certificate of Approval to the Housing Rehabilitation Specialist when requesting the final inspection. The Housing Rehabilitation Specialist will ensure that a copy of the Certificate of Approval is placed in the case file.

#### **U. Record Program Mortgage Documentation**

At construction completion, the Housing Rehabilitation Specialist will forward the executed program mortgage to the Township Business Administrator for recording. The Township will immediately file the mortgage with the County Clerk. For rental properties, the Deed Restriction will also be recorded.

#### **V. File Closing**

The Housing Rehabilitation Specialist will close the homeowner's file after the final payment is made and the mortgage, and when applicable, Deed Restriction is/are returned from the County with recorded date, book and page

The Housing Rehabilitation Specialist will send the homeowner a case closeout letter explaining the warranty period, importance of program documents for personal record keeping, explaining the homeowner's responsibility to continue to maintain the home, providing the homeowner with a home maintenance checklist as guidance, thanking the owner for program participation, and encouraging him/her to recommend the program to other households in the community and, when applicable, reminding owner of the affordable housing rental requirements listed in the program lien documents and deed restriction.

#### **W. Requests for Subordination**

Clark may agree to subordination of its program lien if the mortgage company supplies an appraisal showing that the new loan plus the balance(s) on all unpaid loans (including the value of the rehabilitation assistance) does not exceed ninety-five (95%) of the appraised value of the unit. If the homeowner is simply refinancing their primary mortgage to a lower interest rate and not "cashing out" any equity, Clark will subordinate up to 100% of the appraised value.

The fee to process subordination requests will be paid by the homeowner directly to the Program Administrator in accordance with the fee set forth in the program administration contract.

## VI. CONTRACTOR REQUIREMENTS AND RECRUITMENT

### A. Marketing

The Program will coordinate with the Township to advertise the availability of construction work on the Township's website and display a contractor outreach poster in the municipal building, including the local construction office.

Contractor outreach will be posted on CGP&H's [www.hip.cgph.net](http://www.hip.cgph.net) website and via CGP&H's HIP social media.

If determined needed, additional outreach may include CGP&H outreach to home improvement contractors registered with Consumer Affairs who are geographically near or in the municipality, outreach via the local newspapers and through the posting of community notices, and advertising the availability of construction work by posting information at local building supply dealers.

All interested contractors will have the opportunity to apply for inclusion on the Program Contractor List, which will be made available for the homeowner's use in selecting rehabilitation contractors.

### B. Contractor Qualifications

To qualify, contractors must meet the following minimum requirements:

- Contractors must carry at least \$1,000,000 in general liability insurance. The Contractor shall carry full workmen's compensation coverage including Employer's Liability limits of at least \$500,000 and statutory state coverage for all of his/her employees and those of his/her subcontractors engaged in program rehab work. The Contractor must provide the Housing Rehabilitation Specialist with a certificate of insurance naming the Program as Certificate Holder, and naming the Municipality and CGP&H as additional insureds at time of program job award.
- At least three favorable references on the successful completion of similar work; and
- The Contractor's State Business Registration Certificate; and
- Current Consumer Affairs Home Improvement Contractor license; and

- Applicable lead certifications for contractors working on houses built prior to 1978. As identified in the scope of work, the contractor must comply with the EPA Renovation, Repair and Painting (RRP) Rule regarding certification; and
- If claiming prior experience with local, state or federally funding housing rehabilitation programs, a record of satisfactory performance in a neighborhood rehabilitation program or other federal/state programs; and
- Appropriate licenses; e.g. plumbing, electrical.

Contractors must also complete a Contractor Qualification Form. The contractor's qualifications will be reviewed and the references cited will be checked by the Program Inspector before the contractor is awarded a job.

Additionally, CGP&H will also conduct periodic contractor orientation sessions via Zoom. Contractors who are new to the program are required to attend an orientation session either via Zoom, via PowerPoint handout, or one-on-one with the Program Inspector.

## **VII. LEAD BASED PAINT (LBP):**

For houses built prior to 1978, contractors must comply with the Environmental Protection Agency Renovation, Repair and Painting Rules (40 CFR Part 745) when any work item is marked with (EPA-RRP Rule) in the work specifications. The requirements are spelled out in the General Conditions of the work specifications.

## **VIII. RENTAL PROCEDURES:**

Rental units are subject to Uniform Housing Affordability Controls (UHAC) promulgated by the New Jersey Housing and Mortgage Finance Agency at N.J.A.C.5:80-26 et seq, the amended Fair Housing Act at N.J.S.A. 52:27D-301 et seq., the Fair Housing Act Regulations promulgated by the Department of Community Affairs, Division of Local Planning Services ("LPS"). once the rental units are rehabilitated. In addition to the mortgage and mortgage note, the controls on affordability shall be in the form of a deed restriction.

The Clark Home Improvement Program shall be administered in accordance with the following as it pertains to rentals:

- If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall

require the unit be rented to an income eligible household at an affordable rent and affirmatively marketed pursuant to UHAC.

- If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to UHAC.
- Rents in rehabilitated units may increase annually based on the standards in UHAC.
- At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.

The municipality's Administrative Agent will continue to administer the rental affordability controls during the 10-year affordability period for each rental property assisted. Landlords are responsible to pay income certification fees for re-rentals.

## IX. MARKETING STRATEGY

In coordination with the Township, the Program Administrator will employ a variety of proven strategies to advertise the program within Clark to establish the program's applicant pool/waiting list. The marketing strategy/plan possibilities include but are not limited to:

- Creation and distribution of program homeowner outreach posters, flyers and brochures
- Place program outreach material on the Township's website and, if available, social media
- Place program outreach material on CGP&H's HIP website and social media
- Municipal E-newsletter and paper newsletter (if available)
- Appending announcements and/or flyers to other municipal mailings as they become available (tax, etc) or direct mailing, whenever available and appropriate
- Municipal email blasts
- Program marketing will be distributed to local community organizations and major employers including religious organizations, civic groups, senior group, ethnic organizations, etc.
- Free local cable TV advertising (when available)
- Periodic Press releases
- Program group presentations to community organizations or at the Township Municipal Building to prospective homeowners and even to local contractors

- Paid newspaper advertisements (last resort) when deemed necessary and appropriate

The order of method used will be analyzed to implement the most effective combination of strategies. Extensive marketing efforts are essential for all successful housing rehabilitation programs to meet their productivity objectives.

Available rental units assisted via the HIP will be affirmatively marketed in accordance with the Township of Clark Affordable Housing Affirmative Marketing Plan.

## **X. MAINTENANCE OF RECORDS AND CLIENT FILES**

### **A. Programmatic Recording**

The Program files will include:

- The policies and procedures manual, which will also be updated when applicable.
- An applicant pool will be maintained by the program staff to track intake of the people interested in the program and the corresponding outgoing application invites.
- A rehabilitation log will be maintained by the program staff that depicts the status of all applications in progress.

### **B. Participant Record keeping**

The Program will be responsible for ensuring that individual files for each unit are established, maintained and then submitted to the municipality upon completion. Each completed file will contain a minimum of the following:

- Checklist
- Application form
- Tenant Application form (Rental Units Only) including rental lease
- Proof of ownership
- Income verification (for all households)
- Proof of currency of property tax and sewer accounts
- Proof of homeowner extended coverage/hazard insurance (Declaration Page)
- Proof that the municipal lien plus the total of other liens does not exceed the market value of the unit.

- Certification of Eligible Household or Notice of Ineligible Household (whichever is applicable)
- Homeowner/Program Agreement
- Certificate of Substandard
- Work Specifications/Cost Estimate aka Work Write-Up
- Bid Notice
- Contractor bids
- Bid Tabulation
- Construction Agreement
- Mortgage and Mortgage Note, and for rental properties, Deed Restriction
- Notice of Right of Rescission
- Homeowner Confirmation of Receipt of EPA Lead Information Pamphlet
- Contractor Confirmation of Receipt of Lead Paint Notice
- Copies of all required permits
- Change orders, if any
- Work progress and final inspection reports
- Copies of contractor payment documentation
- Photographs (Before and After)
- Close-out documents
- Certification of Approval

### **C. Reporting**

For each unit, the following information must be retained to be reported annually:

- Street Address
- Block/Lot/Unit Number
- Owner/Renter
- Income: Very Low/Low/Mod
- Final Inspection Date
- Funds Expended on Hard Costs

- Funds Recaptured
- Major Systems Repaired
- Unit Below Code & Raised to Code
- Effective Date of Affordability Controls
- Length of Affordability Controls (yrs)
- Date Affordability Controls Removed
- Reason for Removal of Affordability Controls

The Program Administrator will provide each completed unit's data for annual monitoring.

#### **D. Financial Recordkeeping**

Financial recordkeeping is the responsibility of the Municipal Housing Liaison, with assistance from the Administrative Agent, as may be requested from time to time.

## **XI. APPEALS PROCESS**

The Program staff is skilled in effectively achieving resolution of homeowner/contractor disputes, in a fair and documented manner. However, on the rare occasion if a homeowner or contractor decides to dispute a Program staff decision, the Program will refer the matter to the Municipality for further resolution.

## **XII. CONCLUSION**

If the procedures described in this manual are followed, the Township of Clark's Home Improvement Program should operate smoothly and effectively. Where it is found that a new procedure will eliminate a recurring problem, that procedure may be incorporated into the program operation. In addition, this manual may be periodically revised to reflect changes in local, state and federal policies and regulations relative to the Home Improvement Program.

## APPENDIX A - LIST OF PROGRAM FORMS

- Application Transmittal Letter
- Program Information Handout
- Application for Assistance- Homeowner
- Application for Assistance- Landlord (Investor)
- Application for Assistance- Tenant
- Eligibility Release Form
- Checklist
- Special Needs Waiver (Eligibility Requirements)
- Special Needs Waiver (Exceed Program Limit)
- Certification of Eligible Household
- Eligibility Determination Form
- Notification of Eligibility
- Notification of Ineligibility
- Homeowner/Program Agreement
- Certificate of Substandard
- Certificate of Substandard – Emergency Situation
- Letter: forward work write-up and contractor list to homeowner
- Work Write-Up Review Form
- Request for Rehabilitation Bid
- Affidavit of Contractor
- Subcontractor Bid Sheet
- Bid Tabulation/Contractor Selection
- Construction Agreement
- Mortgage
- Mortgage Note – single family, multi family, investor versions
- Notice of Right of Rescission
- COAH Deed Restriction (when applicable)
- Homeowner Confirmation of Receipt of EPA Lead Information Pamphlet
- Contractor Confirmation of Receipt of Lead Paint Notice
- Notice to Proceed
- Change Order Authorization (when applicable)
- Contractor's Request for Final Inspection
- Contractor Payment
- Certificate and Release
- Closeout Statement

# Exhibit 6

TOWNSHIP OF CLARK  
Resolution 26-92  
March 13, 2026

**RESOLUTION OF THE TOWNSHIP OF CLARK COUNCIL DESIGNATING  
737 RARITAN ROAD, CLARK, NEW JERSEY, SHOWN ON THE TOWNSHIP  
TAX MAP AS BLOCK 34, LOT 25.01**

**WHEREAS**, on February 2, 2026, the Governing Body of the Township of Clark by Resolution 26-63 authorized the Planning Board to undertake a preliminary investigation of property known as 737 Raritan Road, Block 34 Lot 25.01 as shown on the Tax Map (“Study Area”) to determine whether this property qualified as an Area in Need of Non-Condensation Redevelopment pursuant to N.J.S.A. 40A:12A-1 *et seq.*; and

**WHEREAS**, on February 5, 2026, the Township of Clark Planning Board by Resolution [LIST RESOLUTION NUMBER] directed Paul N. Ricci, P.P., A.I.C.P., the Township Planner, to prepare a report in order to determine whether the Study Area qualifies as an Area in Need of Non-Condensation Redevelopment pursuant to N.J.S.A. 40A:12A-1 *et seq.*; and

**WHEREAS**, the Township Planner prepared a report titled “Redevelopment Study and Preliminary Investigation Report, 737 Raritan Road, Block 34 Lot 25.01 (“Redevelopment Study”), dated February 20, 2026; and

**WHEREAS**, the Planning Board conducted a public hearing on March 5, 2026 to determine whether the Study Area qualifies for designation as an Area in Need of Non-Condensation Redevelopment; and

**WHEREAS**, two members of the public appeared at the Planning Board hearing; and

**WHEREAS**, the Redevelopment Study concluded that Study Area satisfies the statutory criteria for being declared an area in need of non-condemnation redevelopment in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-5 as follows:

a. Block 34, Lot 25.01 within the Study Area qualifies under criteria “c” because it has been vacant for at least ten (10) years and is without the prospect of redevelopment through the instrumentality of private capital and qualifies for designation as an area in need of non-condemnation redevelopment.

b. Block 34, Lot 25.01 within the Study Area qualifies under criterion “h” is consistent with the smart growth planning principles and policies that are advanced by the State Planning Act, for designation as an area in need of non-condemnation redevelopment.

**WHEREAS**, the Planning Board accepted the findings set forth in the Redevelopment Study and the testimony of Paul Ricci at the Planning Board public hearing and the recommendation of the Planning Board is that the Township Council declare the Study Area to be an Area in Need of Non-Condensation Redevelopment.

**NOW, THEREFORE BE IT RESOLVED**, by the Governing Body of the Township of Clark on this 13<sup>th</sup> day of March, 2026 that the properties identified as 737 Raritan Road, Block 34 Lot 25.01 on the Township Tax Map, be designated an Area in Need of Non-Condensation Redevelopment pursuant to N.J.S.A. 40A:12A-1 et seq.; and

**BE IT FURTHER RESOLVED** that the Township Clerk is hereby directed to forward the Council Resolution and Redevelopment Study to all the property owners within the Study Area and the Department of Community Affairs within ten (10) days of adoption by the Township Council.

ATTEST:

APPROVED:

  
 EDITH L. MERKEL, RMC  
 Township Clerk

  
 FRANK G. MAZZARELLA  
 Council Vice President

Res26/3-13 92DesignatingNon-CondensationAreaInNeedofRedev-737RaritanRd

			Motion	Second	Aye	Nay	Abstain	Absent	
		Hoff			✓				
		Hund		✓	✓				
✓	Adopted	Mazzarella	✓		✓				
	Adopted as Amended	Minniti			✓				
	Defeated	O'Connor						✓	
	Tabled	Toal			✓				
	Withdrawn	Smith						✓	
		Entire Council							
		TOTAL			5			2	

State of New Jersey)  
 County of Union ) ss.

I, Edith L. Merkel, Township Clerk of the Township of Clark, County of Union, State of New Jersey, DO HEREBY certify that the foregoing is a true and correct copy of Resolution 26-92 as approved at a Regular Meeting of the Township Council held on March 13, 2026.

  
 Edith L. Merkel, Township Clerk  
 Date: March 13, 2026

**TOWNSHIP OF CLARK PLANNING BOARD**

**RESOLUTION**

**RESOLUTION OF THE TOWNSHIP OF CLARK PLANNING BOARD  
RECOMMENDING THE PROPERTY IDENTIFIED AS BLOCK 34, LOT  
25.01 ON THE TAX MAP OF THE TOWNSHIP OF CLARK BE  
DESIGNATED AS A NON-CONDEMNATION AREA IN NEED OF  
REDEVELOPMENT.**

**WHEREAS**, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. ("LRHL"), authorizes municipalities to determine whether certain parcels of land situated within the municipality constitute an "area in need of redevelopment" as defined in the LRHL; and

**WHEREAS**, pursuant to the LRHL, no parcels of land shall be declared an area in need of redevelopment without the municipality having first authorized its planning board by resolution to undertake a preliminary investigation to determine whether the subject parcels meet the statutory criteria for an area in need of redevelopment; and

**WHEREAS**, on February 2, 2026, the Township Council ("Township Council") of the Township of Clark ("Township") adopted Resolution No. 26-63 authorizing the Township Planning Board ("Board") to undertake a preliminary investigation of the area consisting of Block 34, Lot 21.01 as identified on the Tax Map of the Township ("Study Area") to determine whether the Study Area, or any portion thereof, is a non-condemnation area in need of redevelopment according to the criteria set forth in the LRHL and to recommend to the Township Council whether the Township Council should designate the Study Area as a non-condemnation area in need of redevelopment; and

**WHEREAS**, on February 5, 2026, the Board authorized Paul Ricci, A.I.C.P., P.P. ("Township Planner") to conduct a preliminary investigation of the Study Area and to determine whether the Study Area should be designated as a non-condemnation area in need of redevelopment; and

**WHEREAS**, the Township Planner conducted a preliminary investigation of the Study Area and prepared a preliminary investigation report entitled, "Redevelopment Study and Preliminary Investigation Report, Block 34, Lots 25.01", dated February 20, 2026 ("Report"); and

**WHEREAS**, the Report set forth the basis for the investigation of the Study Area and a map depicting the Study Area, and concludes that the Study Area qualifies as a non-condemnation area in need of redevelopment pursuant to the LRHL, for the reasons set forth in the Report; and

**WHEREAS**, the LRHL requires the Board to conduct a public hearing prior to making its recommendation whether the Study Area should be designated as a non-condemnation area in need of redevelopment, at which hearing the Board shall hear all persons who are interested in or would be affected by a determination that the Study Area is a non-condemnation area in need of redevelopment; and

**WHEREAS**, in accordance with N.J.S.A. 40A:12A-6, notice of said public hearing was published in the *The Leader* on February 19, 2026 and the *Star Ledger Online* on February 22, 2026, the latter being not less than 10 days prior to the date of such public hearing, and a copy of said notice was mailed at least 10 days prior to the date of said public hearing to the owner(s) of the property within the Study Area; and

**WHEREAS**, on March 5, 2026, the Board reviewed the Report, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and to address questions to the Board and its representatives concerning the potential designation of the Study Area as a non-condemnation area in need of redevelopment; and

**WHEREAS**, after careful consideration of all evidence presented and all testimony, if any, offered,

**NOW, THEREFORE, BE IT RESOLVED** by the Township of Clark Planning Board, County of Union, State of New Jersey, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Study, and the findings of fact and conclusions contained therein, are hereby incorporated herein by reference in their entirety. The Board Secretary is hereby directed to transmit a copy of the Report and this resolution to the Township Council.
3. After consideration of all evidence presented and all testimony, if any, offered, the Board accepts and adopts the recommendation contained in the Report, and hereby recommends that the Study Area be declared a non-condemnation area in need of redevelopment in accordance with the LRHL, for the reasons set forth in the Report.
4. This Resolution shall take effect immediately.

**BE AND THE SAME IS HEREBY APPROVED**

I hereby certify that the above is a true copy of the Resolution adopted by the Planning Board of the Township of Clark on March 5, 2026.

  
\_\_\_\_\_  
Donna Mazzucco, Board Secretary