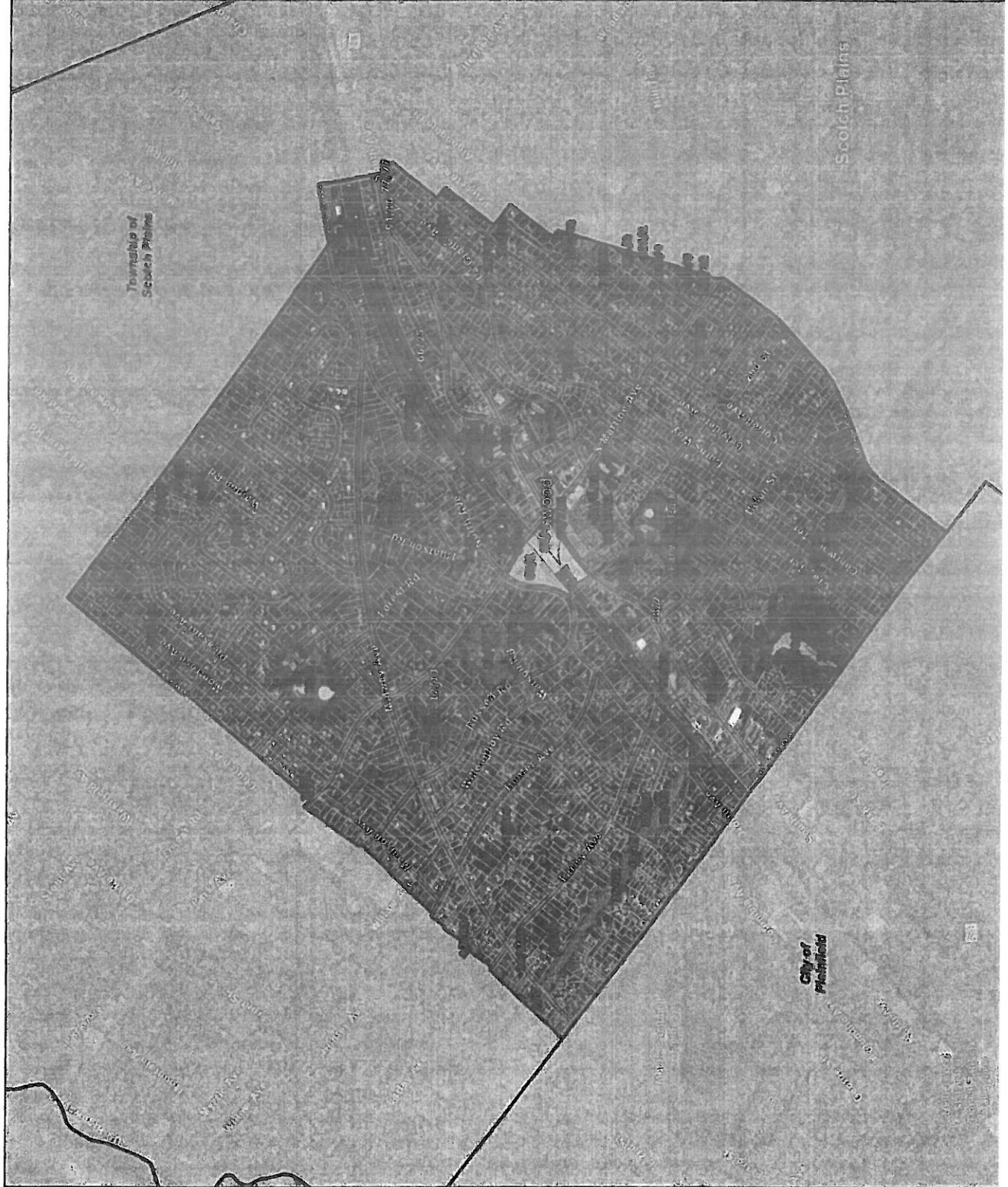


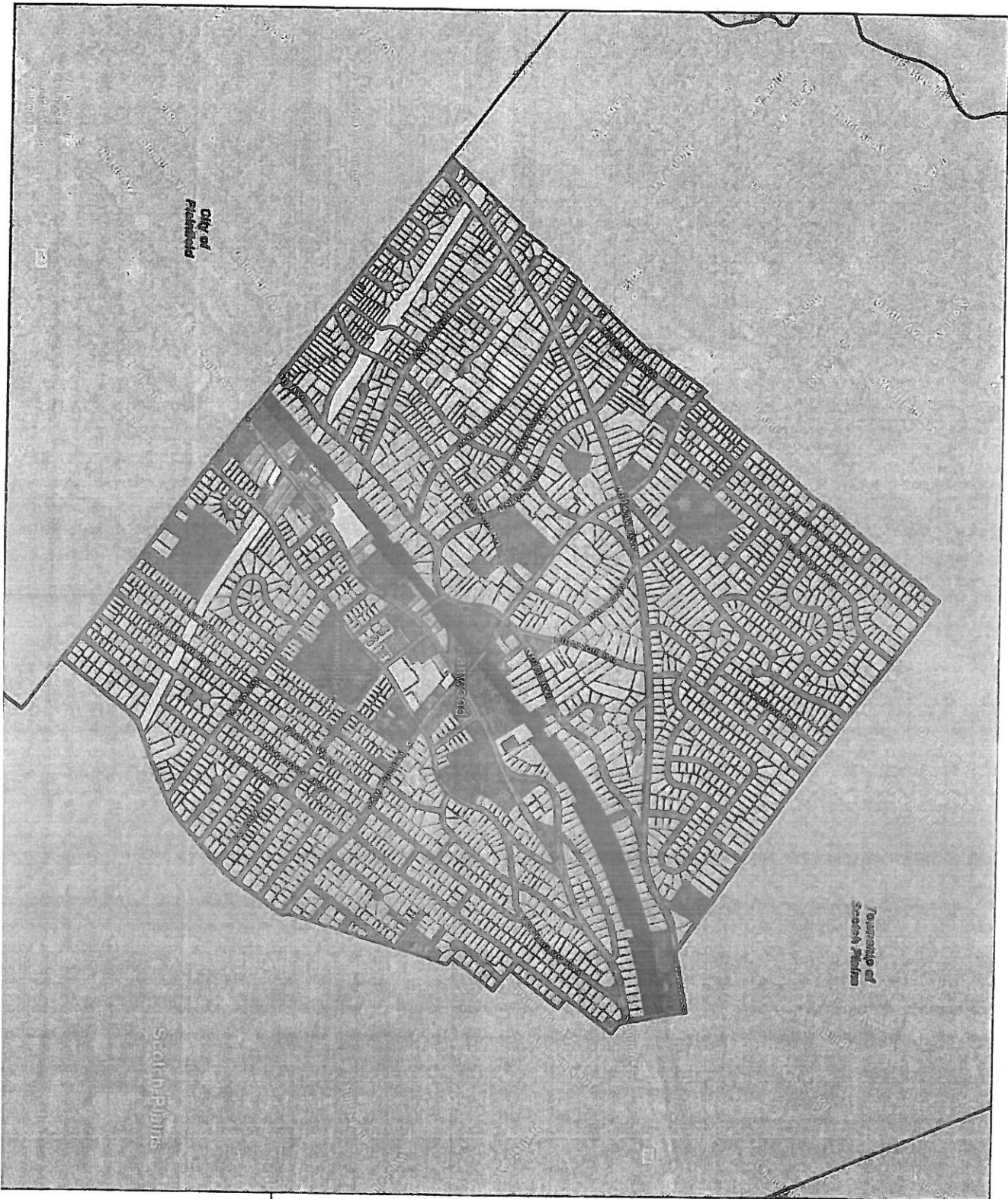
*Round 4 Housing Element and Fair Share Plan
Borough of Fanwood, New Jersey*

Appendix A: Vacant Land Adjustment Documentation

**Vacant Land Adjustment
Fanwood Borough, N.J.**



- Developed/Excluded
 - Vacant
 - Estimated Wetland Buffer (50 Feet)
 - Special Flood Hazard Area
 - Wetlands
 - Historic Properties
 - Streambed
- 900 US Feet



**MOD-IV Land Use Class:
Farwood Borough, N.C.**

- ☐ Class 1 (Vacant)
- ☐ Class 2 (Residential)
- ☐ Class 4A (Commercial)
- ☐ Class 4B (Industrial)
- ☐ Class 5A (Class 1 Railroad)
- ☐ Class 15C (Public)
- ☐ Class 15D (Church and Charitable)
- ☐ Class 15F (Other Exempt)



900
US Feet

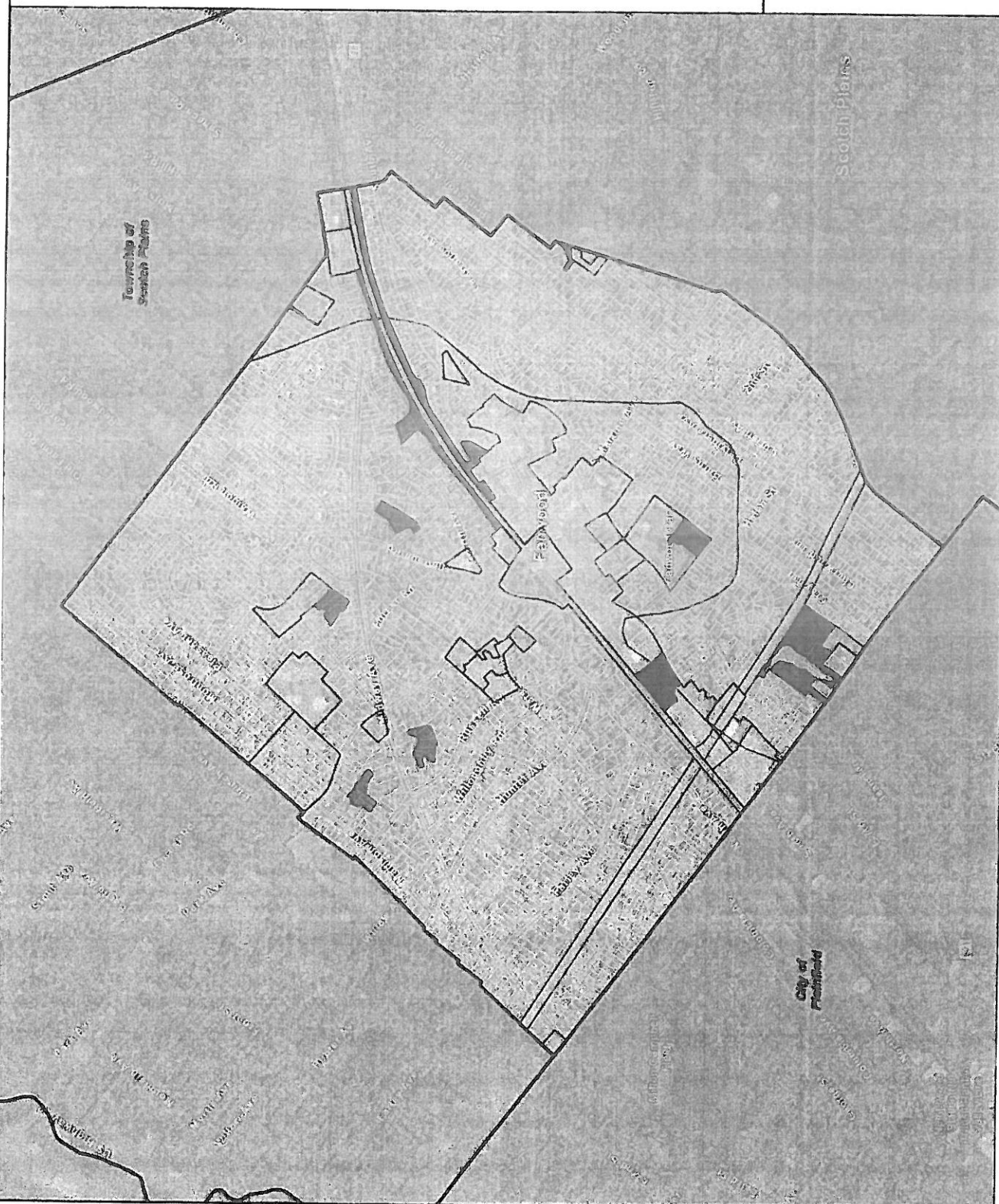
**Land Use/Land Cover Type
Fanwood Borough, NJ**

- Barren Land
- Forest
- Urban (Developed)
- Wetlands

Source: NIDEP 2020 Land Use/Land Cover



900



**BOROUGH OF FANWOOD
ORDINANCE 16-18-R**

**AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY
OF UNION, AND STATE OF NEW JERSEY, AMENDING THE
LAND USE ORDINANCE OF THE BOROUGH OF FANWOOD
TO IMPOSE A MANDATORY AFFORDABLE HOUSING SET-
ASIDE REQUIREMENT**

WHEREAS, the Fanwood Borough Planning Board adopted the Fanwood Borough Housing Plan Element and Fair Share Plan on November 30, 2016 ; and

WHEREAS, the Fanwood Borough Council endorsed the Fanwood Borough Housing Plan Element and Fair Share Plan on November 30, 2016; and

WHEREAS, the Fanwood Borough Housing Plan Element and Fair Share Plan requires the Borough of Fanwood to adopt a mandatory affordable housing requirement for all new multi-family residential developments of five (5) or more units that receive a density variance increasing the permissible density or are rezoned to permit multi-family residential housing or are subject to a new redevelopment plan.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Fanwood, County of Union, State of New Jersey as follows:

Section 1. Chapter 184, Article XIII, of the Borough Code is hereby amended to add a new Section 124.1, Mandatory Affordable Housing Set-aside, as follows:

§184-124.1. Mandatory Affordable Housing Set-Aside.

A. Purpose

Unless otherwise required by existing zoning or an adopted redevelopment plan, all new multi-family residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or new redevelopment plan shall be required to provide an affordable housing set-aside as follows:

- (1) Required affordable housing units shall be equal to 20% of the number of housing units proposed in the application for units offered for sale.
- (2) Required affordable housing units shall be equal to 15% of the number of housing units proposed in the application for units offered for rent.

B. Affordable housing units may be provided on-site or off-site within the Borough and are subject to the provisions of the Borough's Affordable Housing Ordinance.

Section 2. All other provisions of Chapter 184 shall remain in full force and effect.

Section 3. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

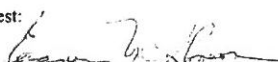
Section 4. A copy of this Ordinance shall be available for public inspection at the office of the Borough Clerk during regular business hours.

Section 5. This Ordinance shall take effect in accordance with all applicable laws.

Introduced: November 21, 2016

Public Hearing
And Adoption: December 5, 2016


Colleen Mahr, Mayor

Attest:

Eleanor McGovern, Borough Clerk

*Round 4 Housing Element and Fair Share Plan
Borough of Fanwood, New Jersey*

**Appendix B: Affordable Housing Ordinance, Mandatory Set-Aside Ordinance,
and Affirmative Marketing Plan**

**BOROUGH OF FANWOOD
ORDINANCE 16-16-R**

AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 105 OF THE BOROUGH CODE, ENTITLED "AFFORDABLE HOUSING" TO ADDRESS THE REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT AND THE NEW JERSEY UNIFORM HOUSING AFFORDABILITY CONTROLS AS THEY PERTAIN TO COMPLIANCE WITH MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Fanwood Borough Planning Board adopted the Fanwood Borough Housing Plan Element and Fair Share Plan on November 30, 2016; and

WHEREAS, the Fanwood Borough Council endorsed the Fanwood Borough Housing Plan Element and Fair Share Plan on November 30, 2016; and

WHEREAS, the Fanwood Borough Council adopted Ordinance 00-08R establishing Chapter 105 of the Borough of Fanwood Code to implement the Borough's previously adopted Housing Element and Fair Share Plan; and

WHEREAS, it has become necessary to repeal Ordinance 00-08R and adopt this new Affordable Housing Ordinance to implement and incorporate the Borough's newly adopted and endorsed Housing Element and Fair Share Plan which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units and sets forth the administrative mechanisms necessary to implement the Borough's revised Fair Share Plan.

BE IT ORDAINED, by the Mayor and Council of the Borough of Fanwood in the County of Union and State of New Jersey as follows:

SECTION 1. Chapter 105 of the Borough of Fanwood Code is hereby repealed and replaced with the following:

105-1 Purpose and Applicability

- A. Purpose. The purpose of these provisions is to provide a realistic opportunity for the construction of Fanwood Borough's constitutional obligation to provide for its fair share of affordable housing for households with low- and moderate-incomes, as directed by the Superior Court of New Jersey and is consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented by N.J.A.C. 5:80-26.1 et seq. and N.J.S.A. 52:27D-301 et seq.
- B. Applicability. The provisions of this Ordinance shall apply:
 - (1) To all affordable housing developments and affordable housing units that currently exist within Fanwood Borough;
 - (2) To all affordable housing developments and affordable housing units that are proposed to be created pursuant to the Fanwood Borough Housing Element and Fair Share Plan;
 - (3) To all unanticipated future developments that will provide affordable housing for low- and moderate-income households; and,
 - (4) To (i) any property in Fanwood Borough that is currently zoned for nonresidential uses and that is subsequently rezoned for multifamily residential purposes, (ii) all approvals for multifamily residential development granted by the Fanwood Borough Planning Board or Zoning Board of Adjustment, including approvals of use or density variances, site plans, or subdivisions, and (iii) redevelopment projects subject to a redevelopment

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

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

"Administrative agent" means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

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

"Affordable" means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

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

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

"Affordable unit" means a housing unit proposed or created pursuant to the Act and approved for crediting by COAH, its successor entity, or the Court and/or funded through an affordable housing trust fund.

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

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

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the DCA; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

"COAH" means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) or its successor entity.

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

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

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

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

"Development fee" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

"Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated.

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

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

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

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

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

"Median income" means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

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

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

sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

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

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

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

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

"Restricted unit" means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under the Agency's Urban Home Ownership Recovery program (UHORP) or Market Oriented Neighborhood Investment program (MONI).

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

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

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

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

- 105-3 Certificates of Occupancy. Certificates of occupancy for developments which include affordable housing units shall be subject to the following additional provisions:
- A. Phasing Schedule for Inclusionary Development. Affordable housing units shall be built, occupied and receive certificates of occupancy in accordance with the following schedule:

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

certificate unless there is a written determination by the Administrative Agent that the unit is to be controlled by the deed restriction and mortgage lien required by COAH or its successor entity.

- D. The certificate of reoccupancy shall not be required where there is a written determination by the Administrative Agent that controls are allowed to expire or that the repayment option is being exercised pursuant to N.J.A.C. 5:92-12.3.

105-4 Administration

A. Municipal Housing Liaison

- (1) Fanwood Borough shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Fanwood Borough shall adopt an Ordinance creating the position of Municipal Housing Liaison and shall adopt a Resolution appointing said Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by COAH, its successor entity, or the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- (2) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Fanwood Borough, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as Fanwood Borough's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) Monitoring the status of all restricted units in Fanwood Borough's Fair Share Plan;
 - (c) Compiling, verifying and submitting annual monitoring reports as may be required by COAH, its successor entity, or the Court;
 - (d) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and,
 - (e) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- (3) Subject to the approval of COAH, its successor entity, or the Court, Fanwood Borough shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with the UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH, its successor entity, or the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

B. Administrative Agent

2000

- [1] Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of Fanwood Borough and the provisions of N.J.A.C. 5:80-26.15; and,
 - [2] Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (b) Household Certification:
- [1] Soliciting, scheduling, conducting and following up on interviews with interested households;
 - [2] Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - [3] Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - [4] Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - [5] Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and,
 - [6] Employing a random selection process as provided in the Affirmative Marketing Plan of Fanwood Borough when referring households for certification to affordable units.
- (c) Affordability Controls:
- [1] Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - [2] Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - [3] Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Union County Register of Deeds or Union County Clerk's office after the termination of the affordability controls for each restricted unit;
 - [4] Communicating with lenders regarding foreclosures; and,
 - [5] Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (d) Resales and Rentals:
- [1] Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and,
 - [2] Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
- (e) Processing Requests from Unit Owners:
- [1] Reviewing and approving requests for determination from owners of

[3] Notifying the municipality of an owner's intent to sell a restricted unit; and,

[4] Making determinations on requests by owners of restricted units for hardship waivers.

(f) Enforcement:

[1] Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

[2] Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

[3] The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

[4] Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

[5] Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and,

[6] Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and COAH, its successor entity, or the Court, setting forth procedures for administering the affordability controls.

(g) Additional Responsibilities:

[1] The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder;

[2] The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by COAH, its successor entity, or the Court; and,

[3] The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

C. Affirmative Marketing Requirements

(1) Fanwood Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, its successor entity, or the Court that is compliant with N.J.A.C. 5:80-26.15, 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 that 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

by the Borough shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

- (5) In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (6) The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- (7) The affirmative marketing process for available affordable units shall begin at least four months (i.e., 120 days) prior to the expected date of occupancy.
- (8) Applications for affordable housing shall be available in several locations, including, at a minimum, the county administration building and the county library for each county within the housing region; the Fanwood Borough Municipal Building and the Fanwood Public Library; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- (9) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

E. Occupancy Standards

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

F. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Fanwood Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this 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.
- (5) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy