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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 City of Linden
Docket No. UNN-L-288-25**

Dear Judge Lindemann:

On behalf of the City of Linden (“City” or “Linden”), please be advised as follows. In December of 2025, the Borough and Fair Share Housing Center (“FSHC”) entered into a Mediation Agreement. See Exhibit 1. The Mediation Agreement required the City to make certain modifications to the Housing Element and Fair Share Plan the Linden Planning Board adopted in June of 2025 and that the City endorsed in June of 2025. Consequently, the City’s affordable housing planner prepared an amendment to the Housing Element and Fair Share Plan (“Amendment”). On March 10 2026, the Linden Planning Board adopted the Amendment. See Exhibit 2. On March 12, the City endorsed the Amendment. See Exhibit 3.

The City adopted the following ordinances to implement its amended plan and fulfill its obligations under the Mediation Agreement:

- 1. 70-13** An Ordinance amending Article XII of Chapter 31, Zoning of the ordinances of the City of Linden, to establish the South Wood Avenue Mixed-Use Affordable Housing Inclusionary Zone (Mu-AH-1) and to rezone Block 459, Lot 2.01 into the MU-AH-1 Zone. See Exhibit 4.
- 2. 70-14** An Ordinance amending Chapter 31, Zoning, of the ordinances of the City of Linden, to rezone Block 238, Lots 10 and 11 as a new TH-MF/SA I Zone. See Exhibit 5.

3. **70-15** An ordinance amending Chapter 31, Zoning, or the ordinances of the City of Linden, to establish Affordable Housing overlay Districts (AHO). See Exhibit 6.
4. **70-16** 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. See Exhibit 7.
5. **70-17** An ordinance of the City Council of the City of Linden, County of Union, New Jersey adopting the 'Chandler Street Redevelopment Plan,' pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. See Exhibit 8.
6. **70-18** An ordinance of the City Council of the City of Linden, County of Union, New Jersey adopting the 'Roselle Street Redevelopment Plan,' pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. See Exhibit 9.
7. **70-19** An ordinance of the City Council of the City of Linden, County of Union, New Jersey amending the Redevelopment Plan for the South Wood Avenue Redevelopment Project pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. See Exhibit 10.

To implement the Amended Plan and Mediation Agreement with FSHC, the City also adopted the following resolutions:

1. **2026-147** - Resolution of the City Council of the City of Linden endorsing the amended Round 4 Housing Element and Fair Share Plan adopted by the Planning Board. See Exhibit 11.
2. **2026-148** - Resolution of the Mayor and Council of the City of Linden, County of Union, State of New Jersey, adopting an operating manual for the administration of the rehabilitation of for sale and rental units. See Exhibit 12.
3. **2026-149** - Resolution of the Mayor and Council of the City of Linden, County of Union, State of New Jersey, adopting the affirmative marketing plan prepared by Acuity Associates. See Exhibit 13.
4. **2026-150** - Resolution of the City Council of the City of Linden, County of Union seeking approval of an updated spending plan. See Exhibit 14.
5. **2026-151** - Resolution of the City Council of the City of Linden of the County of Union, State of New Jersey, stating its intent to bond or take such other steps as may be necessary to fully fund its Housing Element and fair Share Plan. See Exhibit 15.

We need to bring one point to the Court's attention. While the Program judge has recommended approval of the Borough's Housing Element and Fair Share Plan as amended, he also stated that this Court should schedule a "HEFSP Confirmation Hearing (or, if and as may be determined necessary by the Mt. Laurel judge, a Fairness and/or Compliance Hearing) to consider approval of the Municipality's Amended HEFSP and the issuance of a Certification of Compliance and Repose". See paragraph (d) on page 5 of the Program Settlement Recommendation of Judge Julio L. Mendez, J.S.C. (Ret.), dated January 22, 2026. We have no objection to the Court confirming that we have done what we agreed to do in our Mediation Agreement. However, we question whether a Confirmation Hearing is really necessary.

We certainly do object, however, to any "Fairness and/or Compliance Hearing". The Fair Housing Act, as amended ("hereinafter FHA II") does not authorize this court to conduct such a hearing. Moreover, even if the Court had the power to require such a hearing, we respectfully suggest that doing so undermines the FHA II. Through this legislation, the Legislature made clear that it believed that Mount Laurel proceeding takes too long to complete and cost too much. Consequently, it sought to impose objective, statewide standards designed to operate "**more expeditiously**" and "**at a lower cost to all parties.**" N.J.S.A. 52:27D-302(n) (emphasis added). By designing a streamlined process, the Legislature sought to focus finite public resources on implementing approved plans instead of on wasteful litigation. Furthermore, the last thing that the hundreds of municipalities expected when they accepted the Legislature's invitation to participate in the new process was that the expensive and demanding process that culminated in the favorable recommendation of the program judge would merely be step 1 in an even lengthier and costlier process. Such a lengthier and costlier process could easily ensue if the Court conducts a fairness and/or compliance hearing and requires the notice required by law for such a hearing. See Morris County Fair Housing Council v. Boonton Tp. 197 N.J. Super. 359, 377-378 (Law Div. 1984) (broadly inviting any interested party to raise any objection they might want). While we could argue this point extensively, for now, we just wanted to make our position on that issue clear.

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

MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM

In the Matter of the Application of the City of Linden, County of Union
Docket No. UNN-L-288-25

WHEREAS, the City of Linden (the “City” or “Linden”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and 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 April 15, 2025 setting the City’s Fourth Round fair share obligations as a Present Need of 299 units and a Prospective Need of 756 units, which no party appealed, and ordering the City to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the City having filed its HEFSP on June 11, 2025 (“Adopted HEFSP”); and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the City’s HEFSP on August 29, 2025; and

WHEREAS, Linden City Revival, LLC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the City’s HEFSP on August 31, 2025; and

WHEREAS, the City responded to the challenges of FSHC by providing FSHC with two reports prepared by Paul Ricci, AICP, PP, the affordable planner for the City: (1) “Expert Professional Planner’s Response Report Fair Share Housing Center’s Challenge to Linden’s Housing Element and Fair Share Plan”, dated October 15, 2025 and (2) “City of Linden Vacant Land Adjustment Analysis Memo”, dated December 1, 2025; and

WHEREAS, the City and FSHC engaged in mediation that culminated in an amicable resolution as memorialized in this Mediation Agreement and discussed at the session Judge Mendez conducted on December 19, 2025; and

WHEREAS, the City and FSHC wish to present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the City for the Fourth Round;

THEREFORE, the City and FSHC agree:

Fair Share Obligations

1. The City's Present Need or Rehabilitation Obligation is 299, the City's Prior Round Obligation (1987-1999) is 209 and Third Round Obligation (1999-2025) is 575, and the City's Fourth Round Prospective Need (2025-2035) is 756.

Satisfaction of Fair Share Obligations

2. The City will address its Present Need via the Union County Home Improvement Program.
3. The City's Prior Round Obligation is 209 and Third Round Obligation is 575 are addressed in the Fourth Round.
4. The City's Fourth Round Prospective Need Obligation is 756 and combined Prior Round and Third Round Obligation is 784 and shall be met with the following mechanisms:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
Vacant Land Adjustment					
RDP Mechanisms					
208-210 South Wood Ave	Inclusionary zoning-Density of 90 units per acre/ 20% set-aside	10	0	TBD	Draft zoning ordinance proposed

Chandler Redevelopment Area	Inclusionary zoning- Density of 75 units per acre/20% set-aside	12	0	TBD	Redevelopment plan proposed
1113 North Wood Avenue	Inclusionary Zoning-Density of 12 units per acre/ 20% set-aside	1	0	TBD	Draft zoning ordinance proposed
Unmet Need Mechanisms					
Roselle Street	100% affordable (redevelopment)	60	0	TBD	Amended redevelopment plan proposed
Amici's	Inclusionary (redevelopment)5% set-aside	4+	0	TBD	Amended redevelopment plan proposed
Bower Street	AHO-2 zoning overlay (redevelopment) Density of 75 units per acre/20% set-aside)	21	0	TBD	Draft overlay ordinance proposed
3-19 South Wood Ave	Inclusionary (redevelopment)	16	0	TBD	Amended redevelopment plan proposed
Downtown Overlay	AHO-1 zoning overlay-density of 75 units per acre/20% set-aside	283	0	TBD	Draft overlay ordinance proposed
East Saint Georges Overlay	AHO-3 zoning overlay- density of 50 units per acre/20% set-aside	20	0	TBD	Draft overlay ordinance proposed
ROC Overlay	AHO-4 zoning overlay-density of 25 units per acre/20% set-aside	49	0	TBD	Draft overlay ordinance proposed
W. Elizabeth Avenue Overlay	AHO-5 zoning overlay-density of 110 units per acre/20% set-aside	97	0	TBD	Draft overlay proposed
1912-1932 East Saint Georges Avenue	AHO-3 zoning overlay – density 50 units per	10	0	TBD	Draft overlay proposed

	acre/20% percent set-aside				
Mandatory Set-Aside Ordinance	20% City-wide set-aside	-	-	-	Draft ordinance proposed
Fourth Round RDP:		23	0		
Fourth Round Unmet Need Addressed Through Mechanisms:		560	0		
Fourth Round Remaining Unaddressed Unmet Need:		173	0		
Prior and Third Round Remaining Unaddressed Unmet Need:		784	0		

Roselle Street 100% Affordable Redevelopment: The City has proposed that it will acquire the Roselle Street property and sponsor a 100% affordable redevelopment. The City will amend the existing redevelopment plan to permit the construction of at least 60 affordable units. The parties agree that this site is suitable for redevelopment. In the event that the 100% project does not move forward expeditiously, FSHC reserves all rights to argue that the City locate another property for a 100% affordable municipally sponsored project and that it allow for inclusionary development at the Roselle Street site.

Amici's (1700 W. Elizabeth Ave): The City's plan calls for 4 units resulting from an approximate 5% set-aside. This City will provide site plan approvals for the site to demonstrate that the set-aside cannot be increased. The City must ensure that any affordable units are appropriately deed restricted as the existing Redevelopment Plan was done prior to the Fourth Round, the Plan may need to be amended. At least 4 units.

Unit Type and Income Distribution Requirements

5. The City and FSHC agree that the City's HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the City shall maintain satisfaction with such requirements for the Fourth Round:

- a. Age Restricted Cap. The City agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(l), which requires age-restricted units to be capped at 30 percent of the overall Fourth Round affordable housing units that address the Fourth Round Prospective Need obligation exclusive of any bonus credits.
- b. Family units. Pursuant to N.J.S.A. 52:27D-211(l), the City shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits created to address its Fourth Round Prospective Need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).
- c. Rental and family rental units. Pursuant to N.J.S.A. 52:27D-311(l), at least 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its Prospective Need affordable housing obligation shall be addressed through rental housing, including at least half as available to families with children.
- d. Very low-income units. Pursuant to N.J.S.A. 52:27D-329.1, 13 percent of all affordable units referenced in this Agreement addressing the City's Prospective Need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families.
- e. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.

- f. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any prior settlement agreement between FSHC and the City, statutory requirements, and the Prior Round and Third Round regulations.
6. In all developments that produce affordable housing, the City and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:
 - a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. (“UHAC”), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
 - b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
 - c. The City agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that 50 percent of the affordable units within each bedroom distribution shall be required to be for low-income households earning 50 percent or less of the regional median income, including 13 percent of the affordable units within each bedroom distribution shall be required

to be for very low-income households earning 30 percent or less of the regional median income.

- d. The City agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.
- e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; New Jersey NAACP; Northwest New Jersey Community Action Program.

Process for Approval and Implementation

7. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:
 - a. The City and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
 - b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for

review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.

- c. The City shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 15, 2026, whichever is sooner, the City shall file the information required by Paragraph 9 and any other adopted ordinances and resolutions on eCourts.
 - d. No later than April 15, 2026, the City and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
 - e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.
8. The City and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by January 1, 2026:

- a. The City will provide all draft zoning ordinances and redevelopment plans described in Paragraph 4 to FSHC for comment by February 1 and will adopt all zoning by March 15, 2025.
 - b. The City will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and the forthcoming regulations at N.J.A.C. 5:99.
 - c. The City will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. 5:99 before March 15, 2026.
9. The City and FSHC recognize that substantial changes in circumstances affecting the City's RDP are possible pursuant to the holding in *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the City shall have one hundred twenty (120) days to explain its position as to whether the changed circumstances trigger an obligation to recalibrate the RDP and, if so, to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The City agrees that any additional RDP generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.
10. The City's Compliance Certification shall be subject to required ongoing monitoring as follows:
 - a. The City by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that

have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.

- b. The City by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.
- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the City or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

11. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part

of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited, absent the need to invoke the rule of necessity.

On behalf of the City of Linden:

Derek Armstrong

Date: 12/26/25

On behalf of Fair Share Housing Center:

[Handwritten Signature]

Date: 12/26/25

Exhibit 2

Exhibit 3

CITY OF LINDEN, COUNTY OF UNION

RESOLUTION NO. 2026-147

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINDEN ENDORSING
THE AMENDMENT HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY
THE PLANNING BOARD**

WHEREAS, in January 2025, the City of Linden (“City” or “Linden”) filed a Declaratory Judgment Action pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.as amended (“FHA II”); and

WHEREAS, in June of 2025, the City filed with the Affordable Housing Dispute resolution program (hereinafter “the Program”) a Housing Element and Fair Share Plan adopted by its Planning Board that it subsequently endorsed (hereinafter “2025 Plan”); and

WHEREAS, the Program assigned Judge Mendez, J.S.C., to preside over mediation and to make recommendations to the county level judge as to whether to issue a certificate of compliance to Linden; and

WHEREAS, the Program assigned Kendra Lelie, PP, AICP, ALSA to serve as the adjudicator and assist Judge Mendez in these tasks; and

WHEREAS, Fair Share Housing Center, Inc (FSHC) and Linden City Revival, LLC (“LCR”) filed objections to Linden’s efforts to secure approval of its 2025 Plan; and

WHEREAS, these objections triggered a mediation process that culminated in a Mediation Agreement with FSHC but no agreement was achieved with LCR; and

WHEREAS, in an effort to implement the Mediation Agreement with FSHC, the City’s professionals prepared an Amendment to the 2025 Plan and the Linden City Planning Board adopted that Amendment, which is attached hereto (hereinafter “Amendment”); and

WHEREAS, the next step in the process of seeking to secure a certificate of compliance is for the City to endorse the Amendment; and

WHEREAS, the City Council has reviewed the Amendment and desires to formally endorse the same in order to advance the City’s efforts to secure judicial approval of its affordable housing compliance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Linden, County of Union, State of New Jersey, as follows:

1. The City Council hereby endorses and approves the Amendment attached hereto.
2. The City authorizes its professionals to provide such supplemental information, clarifications, or certifications as they deem appropriate in their efforts to secure approval of the amended plan from the county level judge.
3. The City authorizes its professionals to make any non-substantive or de minimis revisions or clarifications necessary to effectuate the intent of this Resolution and facilitate judicial review of the Amended Plan.
4. The City Clerk is directed to transmit copies of this Resolution, together with the adopted Amendment, immediately to Affordable Housing Counsel so that counsel, in accordance with FHA II, can file the Amendment within 48 hours from adoption.
5. This Resolution shall take effect immediately upon adoption.

PASSED: March 12, 2026

Michele Yamahiro
Council President

APPROVED: March 13, 2026

Donk Amato
Mayor

ATTEST:

Joseph C. Beall
City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true copy of a Resolution adopted by the City Council of the City of Linden at a meeting held on March 12, 2026.

Joseph C. Beall
City Clerk

Certified to be a true and exact copy.

Joseph C. Beall
City Clerk, City of Linden, N.J.

Date: 3/12/2026

Exhibit 4

FIRST READING: February 17, 2026

Ord. No. 70-13

2nd & FINAL READING: March 12, 2026

AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 31, ZONING, OF THE ORDINANCES OF THE CITY OF LINDEN, TO ESTABLISH THE SOUTH WOOD AVENUE MIXED-USE AFFORDABLE HOUSING INCLUSIONARY ZONE (MU-AH-1) AND TO REZONE BLOCK 459, LOT 2.01 INTO THE MU-AH-1 ZONE

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 City desires to create additional zones in which inclusionary multi-family non-age-restricted housing developments are permitted to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Linden may satisfy its constitutional obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

WHEREAS, the City finds the area that is proposed to be rezoned is available, suitable, developable and approvable, as those terms have been defined at N.J.A.C. 5:93-1, et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Linden, County of Union, State of New Jersey, as follows:

SECTION ONE. Section 31-3.1, Zoning Districts, of Chapter 31, Zoning, of the Ordinances of the Borough of Linden, is hereby amended to include the following:

MU-AH-1 South Wood Avenue Mixed-Use Affordable Housing Zone

SECTION TWO. Article XII, Reserved, of Chapter 31, Zoning, of the Ordinances of the City of Linden is hereby amended and supplemented by the addition of the following:

§ 31-14 – SOUTH WOOD AVENUE MIXED-USE AFFORDABLE HOUSING ZONE

§ 31-14.1 Purpose: The purpose of this 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. It is further the intent of the zone to promote neighborhood-scale mixed-use development. Large-scale, single-user commercial development is prohibited in this zone. This inclusionary district applies to the following property: Block 459, Lot 2.01.

§ 31-14.2 Principal Permitted Commercial and Residential Uses:

- a. All ground-floor uses permitted in the SA-2 District.
- b. Multifamily residential housing on upper building floors.
- c. Multiple permitted uses may occupy a single building.

§ 31-14.3 Accessory Uses:

- a. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the MU-AH-1 Zone.

§ 31-14.4 Density and Bulk Requirements:

- a. Dwelling Unit Maximum Density. The maximum number of permitted dwelling units shall not exceed 90 units per acre.
- b. It is intended that this zone be developed as a mix of residential and commercial uses to satisfy the City'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.
- c. Required affordable housing set-aside. Any residential development shall be required to provide a minimum of 20% of the total number of units on-site to be constructed as affordable to low- and moderate-income eligible families. Fractions of units shall be rounded up.
- d. Building area, external yard and bulk requirements shall be as follows:
 - a. Minimum lot area (acres): 0.5
 - b. Minimum setbacks from external lot lines (feet) shall be as follows:
 - a) Front yard (South Wood Avenue): 5.
 - b) West Morris Avenue: 5.
 - c) Side yard: 5.
 - d) Rear yard: 15.
- e. Maximum impervious lot coverage (percentage): 90%.
- e. Building Height. 60 feet.
- f. 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.

§ 31-14.5 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:
 - a) Each vertical articulation shall be no greater than 30 feet apart.
 - b) Each vertical articulation shall be a minimum of one foot deep.
 - c) Each vertical projection noted above may extend into the required front yard a maximum of 18 inches in depth.
 - d) 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. 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.
- i. 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.
- j. 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.
- k. 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.
- l. 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.

§ 31-14.6 Additional Requirements.

- a. Required affordable housing set-aside. Any residential development must provide a minimum of 20% of the total number of units on-site to be constructed as affordable to very-low, low- and moderate-income eligible families.
- b. All affordable housing units shall comply with the City's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D- 301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.).
- c. In the event of any inconsistencies between this redevelopment plan and the Statewide Nonresidential Development Fee Act, the Act controls.

Section 31-14.7. Application Review Procedures

The Planning Board shall comply with the provisions of N.J.A.C. 5:93-10.1 regarding the expedited review of inclusionary residential development applications.

SECTION THREE. A copy of this Ordinance is hereby transmitted to the City of Linden Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land

Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the City Council may proceed to adopt the Ordinance.

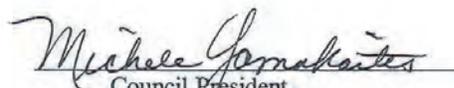
SECTION FOUR. All Ordinances of the City of Linden which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

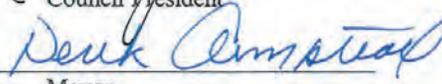
SECTION FIVE. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION SIX. This Ordinance shall take effect as provided by law.

PASSED: March 12, 2026

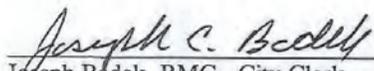
APPROVED: March 13, 2026



Council President


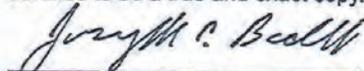
Mayor

ATTEST:



Joseph Bodek, RMC, City Clerk

Certified to be a true and exact copy.



City Clerk, City of Linden, N.J.

Date: 3/12/2026

Exhibit 5

FIRST READING: February 17, 2026

Ord. No. 70-14

2ND & FINAL READING: March 12, 2026

AN ORDINANCE AMENDING CHAPTER 31, ZONING, OF THE ORDINANCES OF THE CITY OF LINDEN, TO REZONE BLOCK 238, LOTS 10 AND 11 AS A NEW TH-MF/SA I ZONE

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 City desires to create additional zones in which inclusionary multi-family non-age-restricted housing developments are permitted to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households; and

WHEREAS, affordable rental housing is particularly beneficial to low and moderate income households; and

WHEREAS, the City finds the area that is proposed to be rezoned available, suitable, developable and approvable, as those terms have been defined at N.J.A.C. 5:93-1, et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Linden, County of Union, State of New Jersey, as follows:

SECTION ONE. Chapter 31-3.1, Zoning Districts, of Chapter 31, Zoning, of the Ordinances of the City of Linden, shall be amended to include the following:

TH-MF/SA I Townhouse-Multi-Family Housing/Set-aside I Zone

SECTION TWO. Chapter 31, Zoning, of the Ordinances of the City of Linden is hereby amended to establish Section 13, Townhouse-Multi-Family Housing/Set-aside I Zone, to read as follows:

§ 31-13 TH-MF/SA I, TOWNHOUSE–MULTI-FAMILY HOUSING/SET-ASIDE I ZONE

Section 31-13.1. Purpose:

The purpose of the TH-MF/SA I Zone is to create the opportunity for the construction of inclusionary multi-family residential developments, with a set-aside for housing units affordable to very-low, low and moderate income households, which development would be permitted as a matter of right on the sites included in this Zone. Where the affordable housing units will be rental units or will be for sale, the required set-aside rate shall be at least twenty (20) percent of all multi-family housing units built (these units shall hereafter be referred to as "Affordable Units"). This inclusionary district applies to the following properties: Block 238, Lots 10 and 11.

Section 31-13.2. PERMITTED USES:

1. Subject to the provisions of Subsections 3 and 4, below, the following uses are permitted in the TH-MF/SA I Zone.

- A. Townhouses as defined in Section 31-2.
- 2. The following accessory uses shall be permitted in the TH-MF/SA I Zone:
 - A. Common open space including community buildings and recreational facilities.

Section 31-13.3. DENSITY AND BULK REQUIREMENTS:

- 1. The minimum lot area shall be at least 0.4 contiguous acres and the density shall not exceed 12 dwelling units per gross acre, up to a maximum of 6 total units.
- 2. There shall be a minimum frontage of one hundred (100) feet upon an accepted public street, improved to the street specification standards of the City, County or State.
- 3. If more than one building is constructed on the site, there shall be a minimum distance between buildings of thirty (30) feet.
- 4. Maximum height: 38 feet.
- 5. Front yard setback: 25 feet.
- 6. Side yard setback: 10 feet each side.
- 7. Rear yard setback: 25 feet.
- 8. Accessory buildings, if provided, shall comply with the R-1a district requirements.

Section 31-13.4. PARKING REQUIREMENTS:

- 1. On-site parking shall be provided in conformance with the requirements of the Residential Site Improvement Standards ("RSIS").
- 2. Any outdoor parking area for three (3) or more automobiles shall be separated from the nearest building by a sidewalk at least four (4) feet wide.
- 3. Surface parking areas shall be paved and curbed and provided with adequate storm water drainage in conformance with RSIS requirements.

Section 31-13.5. STREETS AND SIDEWALKS:

- 1. All streets, sidewalks and driveways in the TH-MF/SA I Zone shall be in conformance with applicable RSIS requirements.
- 2. Sidewalks shall be provided in suitable locations including along the street frontage and at entrances and exits to the development and to the building(s) within the development and wherever pedestrian traffic is anticipated to occur.

Section 31-13.6. BUILDING STANDARDS:

- 1. The minimum width of any dwelling unit shall be eighteen (18) feet.
- 2. Each two and three-bedroom Affordable Unit shall be provided with an enclosed, lockable storage space, in addition to the closets located within these units. Such storage space shall be at least 216 cubic feet in area and at least six (6) feet in height and shall be provided: (a) within or adjacent to the dwelling unit served, (b) or adjacent to the garage serving the unit, or (c) within or adjacent to a common area such as a basement or hallway provided that such storage space shall have either direct access to the exterior of the building or access to the exterior via a common interior hallway with elevator access, if above the ground level.

- 4. Built-in air conditioning units shall not project more than two (2) inches from the outside face of the wall.
- 5. A townhouse unit shall have at least two (2) exterior exposures, each of which shall be provided with windows, doors or a combination thereof, so as to provide cross or through ventilation for such unit. A flat shall have at least one exterior exposure.
- 6. Townhouses facing North Wood Avenue must be designed with a front-facing appearance, including real or decorative doors, windows, and ornamentation.

Section 31-13.7. ADDITIONAL REQUIREMENTS.

- 1. Required affordable housing set-aside. Any residential development must provide a minimum of 20% of the total number of units on-site to be constructed as affordable to very-low, low- and moderate-income eligible families.
- 2. All affordable housing units shall comply with the City's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.).
- 3. In the event of any inconsistencies between this redevelopment plan and the Statewide Nonresidential Development Fee Act, the Act controls.

Section 31-. Application Review Procedures

The Planning Board shall comply with the provisions of N.J.A.C. 5:93-10.1 regarding the expedited review of inclusionary residential development applications.

SECTION THREE. A copy of this Ordinance is hereby transmitted to the City of Linden Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the City Council may proceed to adopt the Ordinance.

SECTION FOUR. All Ordinances of the City of Linden which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION FIVE. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION SIX. This Ordinance shall take effect as provided by law.

PASSED: March 12, 2026

APPROVED: March 13, 2026

Mechelle Yamukata
Council President

Deuk Comptead
Mayor

ATTEST:

Joseph Bodek
Joseph Bodek, RMC, CMR, City Clerk

Certified to be a true and exact copy.
Joseph C. Bodek
City Clerk, City of Linden, N.J.

Date: 3/12/2026

Exhibit 6

FIRST READING: February 17, 2026

Ord. No. 70-15

2ND & FINAL READING: March 12, 2026

AN ORDINANCE AMENDING CHAPTER 31, ZONING, OF THE ORDINANCES OF THE CITY OF LINDEN, TO ESTABLISH AFFORDABLE HOUSING OVERLAY DISTRICTS (AHO).

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 city 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 Linden 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 City finds the area that is proposed to be overlay zoned to adequately addresses 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 City of Linden, County of Union, State of New Jersey, as follows:

SECTION ONE. Section 31-3.1, Zoning Districts, of Chapter 31, Zoning, of the Ordinances of the City of Linden, is hereby amended to include the following:

AHO Affordable Housing Overlay Districts

SECTION TWO. Chapter 31, Zoning, of the Ordinances of the City of Linden is hereby amended to establish new Affordable Housing Overlay Districts, to read as follows:

§ 31- 15 Affordable Housing Overlay Districts (AHO)

§ 31-15.1 Purpose: The purpose of this section is to establish overlay zones so as to provide opportunity to develop multifamily residential housing units which are affordable to low- and moderate- income families consistent with the City's constitutional obligation to provide affordable housing pursuant to the New Jersey Supreme Court's Mount Laurel decisions. Where a proposed use is permitted in both the underlying zone district and overlay zone, the development regulations of the underlying zone district shall apply, unless the developer elects to develop in accordance with the AHO zone standards as set forth herein. These overlays apply to the following properties:

AHO Zone	Properties
AHO-1	Block 198, Lots 24-35; Block 200, Lots 28.01 28.02, 30-32, 34-37; Block 209, Lots 22.01, 22.02, 23, 25-30; Block 211, Lots 11.01, 11.02, 11.03, 12-16; Block 212, Lots 24.02, 24.03, 25, 29, 30-36; Block 243, Lots 1-3, 4.01, 4.02, 4.03, 4.04; Block 244, Lots 6.01, 6.02, 7-8, 10-11; Block 246, Lots 3.01, 4, 5.01, 6-16; Block 252, Lots 1-8, 40-41; Block 253, Lots 1-2, 4-8, 9.01, 9.02, 10, 44.
AHO-2	Block 146, Lots 3-5, 6.01, 7.
AHO-3	Block 71, Lots 1.03, 1.04, Block 82, Lot 1.01; Block 13, Lots 5-7.
AHO-4	Block 533, 1, 15-17; Block 534, Lots 1, 19-21; Block 535. Lots 1.01, 6-7;

	Block 536, Lots 1, 12-15, Block 537, Lots 1, 20-21, 22.01; Block 538, Lots 1, 19-21, 22.01, 22.02, 23; Block 539, Lots 1, 21.01, 22.02, 23.01, 23.02; Block 540, Lots 1, 20-22, Block 545, Lots 17.01, 17.02, 18-25, 27-30; Block 546, Lots 8-11, Block 547, Lots 10-13, Block 549, Lots 7, 8.01, 8.02, 9-10; Block 550, Lots 9-12.
AHO-5	Block 288, Lots 3, 4.01, 4.02, 8.01, 9-10, 12; Block 321, Lots 1-8.

§ 31-15.2 Permitted principal uses. Within the AHO Districts, apartment development shall be permitted on upper floors subject to the specific conditions and limitations as set forth in this chapter, except that single-use apartment buildings shall be permitted in the AHO-2 overlay (Block 146, Lots 3, 4, 5, 6.01 & 7).

§ 31-15.3 Permitted accessory uses. Within the AHO Districts, the following accessory uses shall be permitted:

- Laundry rooms, recreational rooms, and other similar accessory uses that are for the common benefit of all residents of the multifamily development.
- Outdoor recreational facilities, including but not limited to swimming pools, tennis courts, basketball courts, and playground equipment.
- Fences, garden walls, and other landscape features, including decorative pools, fountains, statuary, terraces, steps, and benches.
- Uses that are subordinate and customarily incidental to the principal permitted use.

§ 31-15.4 Minimum lot size requirements.

- The minimum lot size within the AHO zones shall be not less than the minimum lot size for the district in which they are located.

§ 31-15.5 Dwelling unit density. Dwelling density shall not exceed:

- AHO-1 District: 75 dwelling units per acre.
- AHO-2 District: 75 dwelling units per acre.
- AHO-3 District: 50 dwelling units per acre.
- AHO-4 District: 25 dwelling units per acre.
- AHO-5 District (West Elizabeth Avenue Redevelopment Plan): 110 dwelling units per acre.

§ 31-15.6 Impervious coverage.

- AHO-1 District: 90 percent
- AHO-2 District: 80 percent
- AHO-3 District: 80 percent
- AHO-4 District: 70 percent
- AHO-5 District: 85 percent

§ 31-15.7 Yard requirements.

- The following minimum yard requirements shall apply:

AHO Zone	Front – All Street-Facing Frontages (feet)	Side (feet)	Rear (feet)
AHO-1	0	0	15
AHO-2	15	6	15
AHO-3	15	6	25
AHO-4	12	Same as underlying Zone	25
AHO-5	See Redevelopment Plan	See Redevelopment Plan	See Redevelopment Plan

§ 31-15.8 Open space.

- a. Any premises used for multifamily dwelling purposes shall contain a minimum of 20% of the lot area as open space.
- b. No portion of any required front yard or any required planting area shall be used for required open space.
- c. No portion of any required open space shall be used for driveways or parking spaces.
- d. No structure of any kind shall be permitted within any required open space, except for swimming pools, outdoor sport structures or playgrounds, or other common outdoor amenities such as courtyards, provided that not more than 25% of any structure shall be covered by a roof.
- e. Required open space shall be subject to site plan review as to design and layout, shall be attractively landscaped and shall not exceed a grade of 5% and shall be of a design to accommodate the needs of the occupants or contemplated occupants of the dwelling units it is designed to serve.
- f. Roof space on buildings or structures, including roof space on parking facilities, may be used as required open space, provided that:
 - 1. Such space shall be accessible to occupants of the dwelling units it is designed to serve, by pedestrian means of access other than stairs.
 - 2. Such space shall contain railings, fencing or similar treatment to make it safe and suitable for recreational use.
 - 3. The roof space shall be enhanced to function as a suitable open area or recreational facility.

§ 31-15.9 Open Space Buffer requirements. A landscaped buffer area shall be required and consist of planted materials intended to provide an attractive visual screen within all of the following described areas adjacent to each side lot line and the rear lot line of each lot:

- a. Per Section 31-22.

§ 31-15.10 Height Limitations.

- a. The following maximum height requirements shall apply:

AHO Zone	Feet	Stories
AHO-1	65	4
AHO-2	48	4
AHO-3	48	4
AHO-4	38	3
AHO-5	Per West Elizabeth Avenue Redevelopment Plan	Per West Elizabeth Avenue Redevelopment Plan

- b. No accessory building shall exceed a height of 16 feet.

PASSED: March 12, 2026

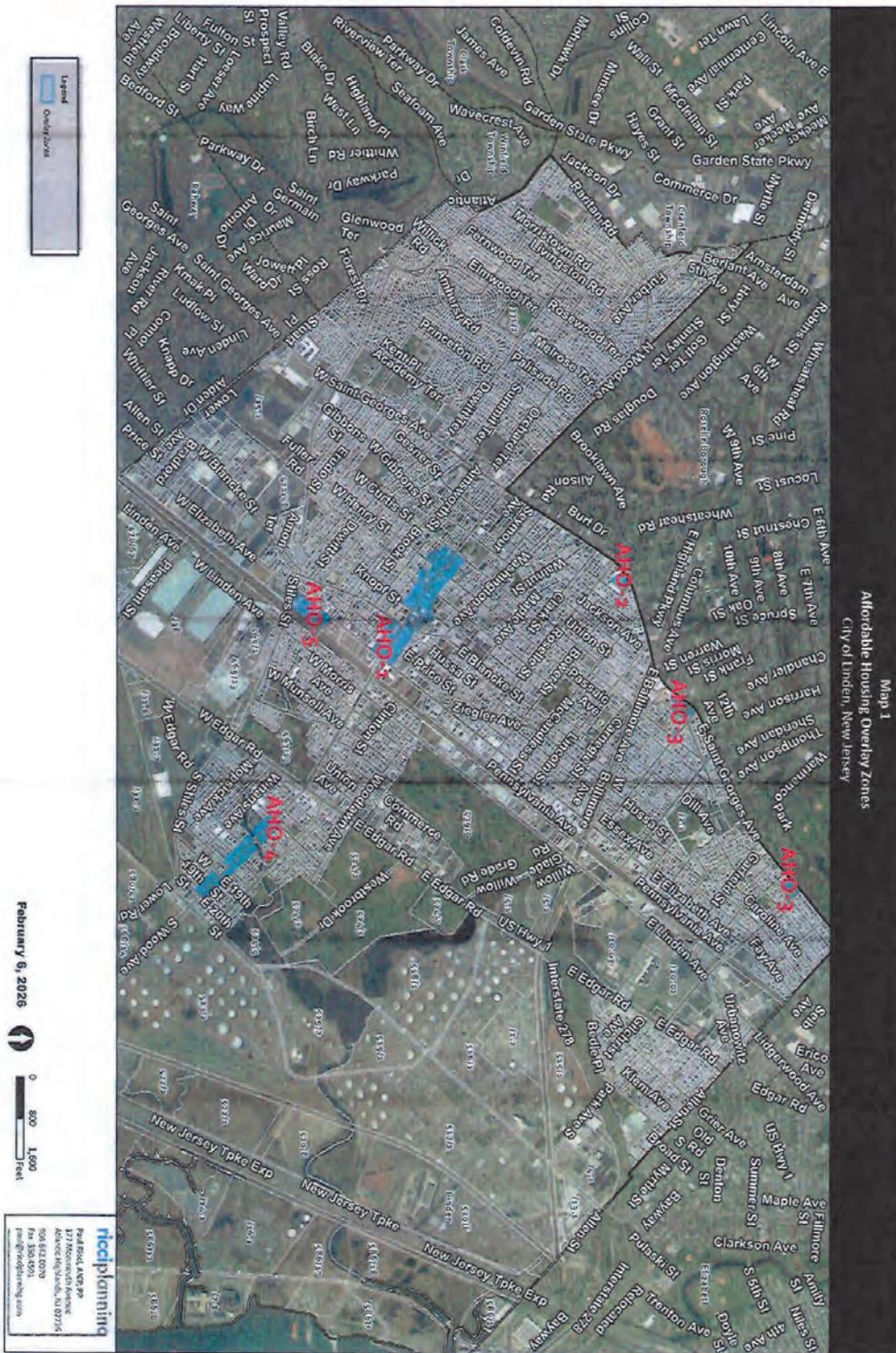
APPROVED: March 13, 2026

ATTEST:

Joseph C. Bally
City Clerk

Michael Yonakaitis
Council President
Deek Cimpstead
Certified Notary Public
Joseph M. Beall
City Clerk, City of Linden, N.J.
Date: 3/12/2026

70-15



Certified to be a true and exact copy.

Joseph C. Beath

City Clerk, City of Linden, N.J.

Date: 3/2/2026

70-15



Map 2
Affordable Housing Overlay Zones
City of Linden, New Jersey

Legend

Overlay Zones

February 6, 2026



nciplanning

Paula A. Kelly, P.E.
1777 North 10th Street
Asheboro, NC 27815
919.541.0100
Fax: 919.541.0101
pa@nciplanning.com

20-15

Map 3
Affordable Housing Overlay Zones
City of Linden, New Jersey



Legend

Overlay Zone

February 6, 2026



0 125 250 Feet

ricci planning

Real Estate, AEP, FP
377 Richardson Avenue
Linden, NJ 07036
Tel: 908.408.1807
Fax: 908.408.1808
paul@riccipanning.com

70-15

Map 4
Affordable Housing Overlay Zones
City of Linden, New Jersey



Legend

Overlay Zone

February 6, 2026

0 45 90 feet

nciplanning

Paul Reed, AAS, PE
 Director of Planning
 508.573.4079
 508.573.4079
 pr@nciplanning.com

70-15



Legend

- Overlay Zone

February 6, 2026

0 100 200 Feet

fisciplanning
 Paul Brock, AICP, PR
 177 Research Avenue
 Linden, NJ 07036
 Tel: 908.624.8600
 Fax: 908.624.8601
 paul@fisciplanning.com

Exhibit 7

FIRST READING: February 17, 2026

Ord. No. 70-16

2ND & FINAL READING: March 12, 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 City of Linden (the “City” or “Linden”) 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 City’s Present Need of 299 units and a Prospective Need of 787 units, and directing the City to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the City filed its HEFSP on June 11, 2025 (“Adopted HEFSP”); and

WHEREAS, Fair Share Housing Center (“FSHC”) and Linden City Revival (“LCR”) collectively 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 Judge Mendez as the Program Judge and Kendra Lelie, PP/AICP, LLA as the adjudicator to help mediate the disputes; and

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

WHEREAS, the City 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 City Council of the City of Linden that a new Chapter 34 titled “Affordable Housing” is created and Chapters 34-1 through 34-12 are amended as follows:

SECTION I

A new Chapter 34 entitled “Affordable Housing” is hereby created as follows, with the entirety of this Section to be included in Chapter 34-1:

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the City of Linden 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 City of Linden 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 Borough'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, electricity, 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 City 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 City 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.A.C. 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 City 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;

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 Linden 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 City 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 City 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 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;