

**TOWNSHIP OF WASHINGTON
WARREN COUNTY, NEW JERSEY
RESOLUTION #2026-89**

**RESOLUTION ADOPTING THE AMENDED FOURTH ROUND AFFORDABLE
HOUSING TRUST FUND FOURTH ROUND SPENDING PLAN BY THE TOWNSHIP
OF WASHINGTON, COUNTY OF WARREN, STATE OF NEW JERSEY**

WHEREAS, on January 15, 2025, Washington Township (“Township”) adopted Resolution 2025-70, which established the Township’s Fourth Round present and prospective need obligations pursuant to the amended Fair Housing Act (“FHS”) at N.J.S.A. 52:27D-301 et. seq., per P.L. 2024, c.2; and

WHEREAS, on January 17, 2025, the Township filed a Declaratory Judgment Action (“DJ Action”) in the New Jersey Superior Court captioned In the Matter of the Township of Washington, WRN-L- 28-25, seeking among other things, compliance certifications; and

WHEREAS, on April 8, 2025, the Court entered an Order fixing the Township’s Fourth Round present need obligation as 31 and prospective need obligation as 152; and

WHEREAS, the Township of Washington’s Land Use Board (“LUB”) held a public hearing and voted to adopt the Township’s Fourth Round Housing Element and Fair Share Plan (“Fourth HEFSP”), addressing the Township’s prior round obligations, Third Round Obligations and Fourth Round obligations as established; and

WHEREAS, the Township of Washington’s Land Use Board (“LUB”) held a public hearing and voted to adopt the Township’s Amended Fourth Round Housing Element and Fair Share Plan (“Amended Fourth HEFSP”); and

WHEREAS, pursuant to the Amended FHA, a municipality may not spend or commit to spend any affordable housing development fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the approval of the expenditure as part of its compliance certification; and

WHEREAS, the Township previously adopted the Fourth Round Affordable Housing Trust Fund Spending Plan on June 18, 2025; and

WHEREAS, the Township now seeks to adopt an Amended Fourth Round Spending Plan, which complies with the new N.J.A.C. 5:99 rules, and outlines how the municipality intends to

allocate development fees and other funds, and how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low-income affordability assistance.

NOW, THEREFORE, BE IT RESOLVED on this 9th day of March 2026 that the Township of Washington, County of Warren, State of New Jersey hereby adopts the Amended Fourth Round Affordable Housing Trust Fund Spending Plan.

Adopted: March 9, 2026

Certification:

I, Ann Kilduff, Clerk of the Township of Washington, County of Warren do hereby certify that the foregoing Resolution is a true and exact copy of a resolution adopted by the Township Committee of the Township of Washington on March 9, 2026.



Ann Kilduff, RMC
Township Clerk

Washington Township Affordable Housing Trust Fund Fourth Round Spending Plan

March 2, 2026

Adopted by the Township Committee on June 18, 2025

Amended on March 2, 2026 and adopted by the Township Committee on [x]

Washington Township
Warren County, New Jersey

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The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12

Susan S. Gruel, P.P. #1955

Hanah Davenport, PP #6561, AICP

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INTRODUCTION

On December 18, 2001, Washington Township adopted its first Development Fee Ordinance (Ordinance No. 01-14), which established the Township's Affordable Housing Trust Fund. All development fees, payments in lieu of constructing affordable units on site, and any other funds collected by the municipality in connection with its affordable housing program are deposited into this separate Affordable Housing Trust Fund for the purposes of affordable housing. Since adopting its Development Fee Ordinance, the Township has actively been collecting and utilizing monies from its Affordable Housing Trust Fund in accordance with applicable rules and regulations.

The Development Fee Ordinance established standards for the collection, maintenance, and expenditure of development fees consistent with COAH rules and P.L.2008, c.46 (C.52:27D-329.1 et al.). All development fees, payments in lieu of constructing affordable units on site, and any other source of income are deposited into this separate affordable housing trust fund for the purposes of affordable housing.

The Township's Development Fee Ordinance underwent amendments on December 21, 2004 (Ordinance No. 2004-16) and was subsequently replaced three times on: June 18, 2006 via Ordinance No. 2006-20; May 19, 2015 via Ordinance No. 2015-05; and April 16, 2025 via Ordinance No. 2025-06 (see Appendix A).

Most recently, the Township prepared an updated Affordable Housing Ordinance (Ordinance No. 2026-02), which includes a development fee section and is anticipated to be adopted in March 2026. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees consistent with the Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and N.J.S.A. 52:27D-329 as most recently amended.

As of January 23, 2026, the Township had collected a total of \$238,268.49 in development fees, interest, and other income over the lifetime of its Affordable Housing Trust Fund. The Township has spent a total of \$195,385.32 from its Affordable Housing Trust Fund during that time, leaving a balance of \$42,882.25 as of January 23, 2026. These funds shall be spent in accordance with N.J.A.C. 5:99 and other applicable regulations, as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

METHODOLOGY

To calculate a projection of revenue anticipated during the period of the Fourth Round, the Township of Washington considered the following:

(a) Projected Development Fees

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the Land Use Board for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Projected Additional Revenue

In addition to residential and non-residential development fees, N.J.A.C. 5:99 allows for the deposit of funds from other sources into the Affordable Housing Trust Fund, including but not limited to: payments in lieu of construction, 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.

More specifically, this Spending Plan accounts for the following revenues:

1. In 2012, the Township allocated \$133,156.00 from the Affordable Housing Trust Fund to support the purchase of the property known as Block 18, Lot 15 ("Meadow Breeze Property"). The Township's intention was to subdivide the property and dedicate a portion of it to Habitat for Humanity to satisfy a percentage of the Township's affordable housing obligation. In a letter dated August 19, 2024, Habitat for Humanity informed the Township that it was unable to proceed with the planned affordable housing due to complications regarding the existing structure on site. In response to this, the Township intends to replenish the \$133,156.00 back into the Trust Fund in increments through 2030.

(c) Projected Interest

1. Interest on the projected revenue in the municipal Affordable Housing Trust Fund at the current average interest rate. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

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PROJECTED REVENUES CHART

To calculate the projection of revenue anticipated from the general development fees, previous transactions within the Affordable Housing Trust Fund dating back to 2015 were reviewed. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing. Projected revenues through 2035 are outlined in Table 1 below.

TABLE 1: PROJECTED REVENUES					
Year	Source of Funds				
	Historical Balance (as of 1/23/2026)	(a) Projected Development Fees	(b) Projected Additional Revenue (Meadow Breeze Property)	(c) Projected Interest	Total
Current Balance	\$42,882.25	–	–	–	\$42,882.25
2026	–	\$2,400.00	\$24,000.00	\$118.80	\$26,518.80
2027	–	\$2,400.00	\$30,000.00	\$145.80	\$32,545.80
2028	–	\$2,400.00	\$30,000.00	\$145.80	\$32,545.80
2029	–	\$2,400.00	\$30,000.00	\$145.80	\$32,545.80
2030	–	\$2,400.00	\$19,156.00	\$97.00	\$21,653.00
2031	–	\$2,400.00	–	\$10.80	\$2,410.80
2032	–	\$2,400.00	–	\$10.80	\$2,410.80
2033	–	\$2,400.00	–	\$10.80	\$2,410.80
2034	–	\$2,400.00	–	\$10.80	\$2,410.80
2035	–	\$1,200.00	–	\$5.40	\$1,205.40
TOTAL	\$42,882.25	\$22,800.00	\$133,156.00	\$701.80	\$199,540.05

The Township projects that a total of \$22,800.00 in development fees and \$133,156.00 in other revenue will be collected between January 24, 2026 and June 30, 2035. An additional \$701.80 in interest is projected to be earned. In conjunction with the existing Affordable Housing Trust Fund balance of \$42,882.25, the Township projects total Affordable Housing Trust Fund revenues and interest of \$199,540.05 through June 30, 2035.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

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

COLLECTION OF DEVELOPMENT FEE REVENUES

Collection of development fee revenues shall be consistent with the Township's Development Fee Ordinance for both residential and non-residential developments and in accordance with the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D8.1 through 8.7 ("SNDFA").

DISTRIBUTION OF DEVELOPMENT FEE REVENUES

The Municipal Housing Liaison will manage the projects outlined in this Spending Plan and the Housing Element and Fair Share Plan and will coordinate with the Township's CFO/Deputy CFO for the distribution of the funds.

COLLECTION AND DISTRIBUTION OF BARRIER FREE FUNDS

N.J.A.C. 5:99-2.6 establishes that an Affordable Housing Trust Fund may include fees collected to adapt affordable unit entrances to be accessible in accordance with the Fair Housing Act (P.L.2024, c.2) and the Barrier Free Subcode (N.J.A.C. 5:23-7). Municipalities choosing to collect funds for this purpose must ensure that the funds remain identifiable from other funds. Collection and distribution of barrier free funds, as applicable, shall be consistent in accordance with the appropriate regulations.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**METHODOLOGY**

The following represent the anticipated affordable housing projects within the Township of Washington that will utilize Trust Fund monies.

(a) Affordability Assistance (N.J.A.C. 5:99-2.5)

As per the requirements regarding the use of funds for affordability assistance laid out in N.J.A.C. 5:99-2.5, municipalities are required to dedicate a portion of all development fees collected and interest earned to provide affordability assistance to very-low-, low-, and moderate-income households in affordable units included in the municipality's Fair Share Plan pursuant to N.J.S.A. 52:27D-329.1.

N.J.S.A. 52:27D-329.2 specifies that affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, common maintenance expenses for units located in condominiums, rental assistance, and any other program authorized by the department. Further, N.J.A.C. 5:99-2.5 stipulates that affordability assistance offered specifically to very-low-income households may include the following:

1. Offering a subsidy to developers of inclusionary or 100% affordable housing developments; or
2. Buying down the cost of low- or moderate-income units in a municipal fair share plan to make them affordable to very-low-income households, including special needs and supportive housing opportunities.

To project the funding amount that is dedicated to affordability assistance, all actual expenditures spent on new construction activities as well as any rehabilitation activities from the inception of the fund are subtracted from the sum of the actual and projected development fees and interest throughout the lifetime

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of the Trust Fund. That total is multiplied by 30% to determine the projected affordability assistance amount that will be set aside. The actual affordability assistance expenditures from the inception of the fund are then subtracted from the overall 30% being set aside for affordability assistance. This final outcome is the total remaining funds that will be dedicated to affordability assistance for the period moving forward.

Washington Township has collected \$238,268.49 in development fees and interest through January 23, 2026. The Township projects an additional \$22,800.00 in development fees and \$701.80 in interest through 2035.

Actual Development Fees, Other Income, and Interest Earned through 1/23/2026		\$238,268.49
Projected Development Fees 2026-2035	+	\$22,800.00
Projected Trust Fund Interest 2026-2035	+	\$701.80
Projected Other Income 2026-2035	+	\$133,156.00
Less Housing Activity through 1/23/2026 (including new construction and rehabilitation)	-	\$184,670.00
Total	=	\$210,256.29
30% Affordability Assistance Contribution	x 0.3 =	\$63,076.89
Less Affordability Assistance Expenditures through 1/23/2026	-	\$0.00
Projected Affordability Assistance through 6/30/2035	=	\$63,076.89

The Township will reserve \$63,076.89, or 30% of actual and projected development fees, other income, and interest collected, from the Affordable Housing Trust Fund to render units more affordable for very-low, low-, and moderate-income households. These funds will be utilized for the affordability assistance purposes as enumerated in the Township's Affordability Assistance Operating Manual (Appendix B).

(b) Administrative Expenses (N.J.A.C. 5:99-2.4)

N.J.A.C. 5:99-2.4 sets forth that no more than 20% of all Affordable Housing Trust Fund monies, exclusive of those collected prior to July 17, 2008 to fund a RCA, shall be expended on administration. These funds may apply to costs including, but not limited to:

1. Those reasonably related to the determination of the fair share obligation or development of a municipal Housing Element/Fair Share Plan;
2. Fees necessary to develop or implement affordable housing programs or an affirmative marketing program;
3. Expenses reasonably necessary for compliance with the processes of the Program;

4. Costs associated with functions carried out in compliance with UHAC, including those related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements; and
5. The proportion of a municipal employee's salary related to the Municipal Housing Liaison or Regional Contribution Agreement administrator functions and fees for required educational programs.

The calculation of allowable administrative expenses is performed by considering the lifetime of the Trust Fund. To project the funding amount that will be available for administrative costs, the sum of all development fees and other income actually collected and all interest earned since the inception of the account is added to the sum of all projected development fees, other income, and interest projected to be collected throughout the Fourth Round. From this amount, any Regional Contribution Agreement (RCA) expenditures made or contractually obligated from the inception of the account are subtracted. This final amount is multiplied by 20% and then any actual administrative expenditures made since the inception of the Trust Fund are subtracted out. The final outcome of this calculation, as depicted in the following table, equates to the total remaining funds that will be available for administrative expenses through the end of the Fourth Round.

The Township collected \$238,268.49 in development fees and interest through January 23, 2026, and did not collect any revenues categorized as "other income." The Township projects an additional \$22,800.00 in development fees, \$133,156.00 in other income, and \$701.80 in interest through 2035. The Township has never taken part in an RCA. Washington Township has spent \$21,158.01 on administrative expenses between the inception of the Trust Fund and January 23, 2026.

TABLE 3: ADMINISTRATIVE EXPENSES		
Actual Development Fees, Other Income, and Interest Earned through 1/23/2026		\$238,268.49
Projected Development Fees 2026-2035	+	\$22,800.00
Projected Trust Fund Interest 2026-2035	+	\$701.80
Projected Other Income 2026-2035	+	\$133,156.00
Less RCA Contributions	-	\$0.00
Total	=	\$394,926.29
20% Max. Permitted on Administrative Expenses through 6/30/2035	x 0.20 =	\$78,985.26
Less Administrative Expenditures through 1/23/2026	-	\$21,158.01
Projected Allowed Administrative Expenditures through 6/30/2035	=	\$57,827.25

As of January 23, 2026, the Township has spent \$21,158.01 on administrative expenses. Therefore, moving forward the Township projects that a maximum of \$57,827.25 is available from the Affordable Housing Trust Fund for administrative expenses for the Fourth Round. Because the actual administrative expense maximum is calculated on an ongoing basis based on actual revenues, the Township shall be permitted to spend 20% of the actual balance of the Affordable Housing Trust Fund at any given time on administrative fees. As additional income is collected, money becomes available for administrative expenses. Projected administrative expenditures, subject to the 20% cap, include but are not limited to:

- Administration and expenses associated with the Township's affordable housing units;
- Expenses associated with the preparation and implementation of the Housing Element and Fair Share Plan and monitoring of the current and future housing programs for the Township of Washington;
- Affirmative marketing; and
- Income qualification.

(c) Rehabilitation Assistance

As indicated in the Township's Fourth Round Housing Element/Fair Share Plan, Washington Township has a Fourth Round Present Need/Rehabilitation obligation of 31 units. The Township intends to address its Fourth Round rehabilitation need through its continued participation in the Warren County Housing Rehabilitation Program ("Warren County Program"). The Warren County Program coordinates a grant-funded Affordable Housing Support Fund Rehabilitation program, which provides financial and technical assistance for the purpose of enabling low- and moderate-income homeowners and property owners to rehabilitate substandard housing.

The Township will dedicate the remaining \$78,635.92 from its Affordable Housing Trust Fund to assist with the County's rehabilitation program in order to address its present need for income eligible households.

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EXPENDITURE SCHEDULE

TABLE 4: PROJECTED EXPENDITURE SCHEDULE THROUGH 2035				
Year	Program			Total
	(a) Affordability Assistance	(b) Administration	(c) Rehabilitation	
2026	\$3,504.27	\$3,212.62	\$4,368.66	\$11,085.56
2027	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2028	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2029	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2030	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2031	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2032	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2033	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2034	\$7,008.54	\$6,425.25	\$8,737.32	\$22,171.12
2035	\$3,504.27	\$3,212.62	\$4,368.66	\$11,085.56
TOTAL	\$63,076.89	\$57,827.25	\$78,635.92	\$199,540.05

4. SUMMARY

As of January 23, 2026, the Township's Trust Fund had a balance of \$42,882.25. Washington Township anticipates an additional \$156,657.80 in development fees, other income, and interest by June 30, 2025, resulting in a projected balance of \$199,540.05 for the Fourth Round. The Township will commit \$63,076.89 for affordability assistance efforts, a maximum of \$57,827.25 for administrative expenses, and the remaining \$78,635.92 for rehabilitation.

TABLE 5: SPENDING PLAN SUMMARY	
Balance as of 1/23/2026	\$42,882.25
PROJECTED REVENUE 2026 TO JUNE 30, 2025	
Development fees	+ \$22,800.00
Other funds	+ \$133,156.00
Interest	+ \$701.80
TOTAL REVENUE + CURRENT BALANCE	= \$199,540.05
PROJECTED EXPENDITURES 2026 THROUGH JUNE 30, 2025	
Affordability Assistance	- \$63,076.89
Administrative Expenses	- \$57,827.25
Rehabilitation	- \$78,635.92
Excess Funds for Additional Housing Activity	= \$0.00
TOTAL PROJECTED EXPENDITURES	= \$199,540.05
REMAINING BALANCE	= \$0.00

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Appendix A

Development Fee Ordinance No. 2025-06

ORDINANCE NO. 2025-06

ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF WARREN, STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 3 ARTICLE II "FAIR HOUSING FEES" AND CHAPTER 3 ARTICLE III "INCLUSIONARY AFFORDABLE HOUSING CONTRIBUTIONS FOR RESIDENTIAL DEVELOPMENT" OF THE CODE OF THE TOWNSHIP OF WASHINGTON

WHEREAS, the Township of Washington filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, Docket No. WRN-L-244-15 (the "Declaratory Judgment Action"), in furtherance of the Supreme Court's March 10, 2015, decision *In re Adoption of N.J.A.C. 5:96 & 5:97* by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

WHEREAS, a Fairness Hearing was held on June 18, 2019, at which a settlement agreement between the Township and Fair Share Housing Center ("FSHC") was approved, and said approval was later memorialized by a Case Management Order entered by the Court on March 14, 2022; and

WHEREAS, an amended settlement agreement between the Township and Fair Share Housing Center ("FSHC") was executed and adopted by the Township on March 15, 2023, and said amendment was later memorialized by a Consent Order entered by the Court on August 15, 2024; and

WHEREAS, the Settlement Agreement, Court's approval, and adoption of the Housing Plan Element and Fair Share Plan require certain changes to the Township's ordinances to address compliance issues; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Washington, Warren County, New Jersey, that Chapter 3, Article II, entitled "Fair Housing Fees" and Chapter 3, Article III, entitled "Inclusionary Affordable Housing Contributions for Residential Development," of the Code of the Township of Washington shall be repealed in its entirety and replaced with the following:

SECTION 1. Chapter 3 Article II Development Fees

§3-2A. Purpose

- A. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH).
- B. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development.
- C. This Chapter establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential

development or improvements to the property during the period of affordability controls.

- (7) The construction of a new accessory building or other structure on the same lot as the principal building shall be exempt from the imposition of development fees if the assessed value of the structure is determined to be less than \$100,000.

§3-2E. Non-Residential Development Fees

A. Imposition of Fees

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.
- (4) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.

B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development

- (1) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (2) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- (3) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event,

within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

- (4) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Washington as a lien against the real property of the owner.
- (5) Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

§3-2F. Collection Procedures

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of Washington fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

H. Except as provided in hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

I. Appeal of Development Fees

(1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Washington. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

(2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Washington. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§3-2G. Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Washington for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

(1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Washington;

(2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

(3) Rental income from municipally operated units;

(4) Repayments from affordable housing program loans;

(5) Recapture funds;

(6) Proceeds from the sale of affordable units; and

(7) Any other funds collected in connection with Washington Township's affordable housing program.

- C. In the event of a failure by the Township of Washington to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Washington, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

§3-2I. Use of Funds

- A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Washington's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Township of Washington for past housing activities.
- C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those

households earning 30 percent or less of the median income for Housing Region 2, in which Washington Township is located.

- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
 - (3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Washington, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township of Washington may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
- (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.
 - (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

§3-2J. Monitoring

The Township of Washington shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential

developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Washington Township's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

§3-2K. Ongoing Collection of Fees

- A. The ability for the Township of Washington to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township of Washington has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- B. If the Township of Washington fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- C. The Township of Washington shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Washington retroactively impose a development fee on such a development. The Township of Washington also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

SECTION 2. At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

SECTION 3. This ordinance shall take effect upon final passage and publication according to law.

SECTION 4. The Township Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Township Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:55D-16 and with the Township Tax Assessor.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be

deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced to pass on the first reading at a meeting of the Township Committee of the Township of Washington held on March 19, 2025 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on April 16, 2025 at 6:30 pm or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 211 State Route 31 North, Washington, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.



Ann Kilduff, RMC
Township Clerk

Washington Township, Warren County
Fourth Round Spending Plan - DRAFT

Adopted June 2025
Amended March 2026

Appendix B
Washington Township
Affordability Assistance Operating Manual

OPERATING MANUAL
FOR THE ADMINISTRATION OF THE
AFFORDABILITY ASSISTANCE PROGRAM

In Accordance with the
Uniform Housing Affordability Controls

Washington Township
Warren County, New Jersey

May 2025

Prepared By:



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- D. Summary of Washington Township’s Affordability Assistance Program Terms

INTRODUCTION

The purpose of this Operating Manual is to describe the policies and procedures of the Township of Washington's Affordability Assistance Program. It will serve as a guide to the program staff and the public alike. This manual describes the basic content and operation of the various affordability assistance program components. This manual may be periodically revised to reflect changes in local, state, and federal policies and regulations relative to implementation of the affordable housing programs described herein.

Implementation of any procedure, even if it is not included in this Operating Manual, shall be in accordance with the Federal Fair Housing Act and Equal Opportunities laws¹, the Uniform Housing Affordability Controls (UHAC) N.J.A.C. 5:80-26.1 et seq.², the New Jersey Fair Housing Act as most recently amended (P.L.2024, c.2), and the affordable housing regulations of the Township of Washington (hereafter referred to as the "Regulations"). In accordance with the Federal Fair Housing Act and Equal Opportunities laws, it is unlawful to discriminate against any person making application to buy or rent a home with regard to age, race, religion, national origin, sex, handicapped, or familial status.

THE AFFORDABILITY ASSISTANCE PROGRAM

In accordance with N.J.A.C. 5:93-8.16, the Township will dedicate at least 30 percent of all development fees collected and interest earned to provide affordability assistance to very low-, low- and moderate-income households. See Appendix A for the current Regional Income Limits for Housing Region 2. The types of affordability assistance discussed in this manual are as follows:

Ownership Assistance Programs

- Down Payment Loan Assistance
- Payment of Closing Costs
- Payment of Lender Fees

Rental Assistance Programs

- Moving Expense Assistance
- First Month's Rent Subsidy
- Utility Deposit Assistance
- Security Deposit Assistance (available to very-low income households only)

¹ <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

² <http://www.nj.gov/dca/affiliates/coah/regulations/uhac.html>

OWNERSHIP ASSISTANCE PROGRAMS

The Affordability Assistance Program will be available to income-qualified purchasers whose households earn 80 percent or less than the area median income for the housing region. The aim of this Program is to encourage higher rates of homeownership within Washington Township. The Township will offer affordability assistance to applicants for ownership units in the form of down payment, closing cost, and lender fee assistance.

To be eligible for **Down Payment Assistance**, the buyer must be able to supply three percent of the down payment with the buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the three percent down payment amount but may be used to fund additional closing costs. The loan amount may be made up to 10 percent of the purchase price. The Township must approve the buyer's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The buyer must sign a mortgage and mortgage note to the Township.

Payment of Closing Costs may include title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowner's insurance, recording fees, and other necessary closing expenses to third parties. Utility deposits, i.e. gas and electric, paid to utility companies are to be returned to the Township Affordable Housing Trust Fund upon resale of the unit. The buyer will execute documents required to secure payment to Washington Township.

Payment of Lender Fees includes mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses. The buyer will execute documents required to secure payment to Washington Township.

Ownership Affordability Assistance Procedures

The procedure for Ownership Affordability Assistance is as follows:

1. Applicant submits application (Appendix B) and proof of Determination of Eligibility.
2. Administrative Agent reviews and processes application.
3. Administrative Agent notifies Township and prepares resolution authorizing award.
4. Township adopts Resolution.
5. For Down Payment and Closing Cost Assistance: Township disperses funds directly to escrow account. For Payment of Lender Fees: Township sends assistance directly to lending company.
6. For Down Payment and Closing Cost Assistance: The Repayment Agreement, Mortgage and Mortgage Note will be executed at closing.
7. For Down Payment and Closing Cost Assistance: Title Company will record the Mortgage as part of the closing documents.
8. Administrative Agent records assistance on master reporting spreadsheet.

RENTAL ASSISTANCE PROGRAMS

The Affordability Assistance Program can be utilized to help improve the affordability of rental units within Washington Township. Rental assistance does not need to be repaid by the tenant. The amount of the rental subsidy will be calculated initially based on the tenant's actual income and the rent level of the affordable units to help bring the total shelter costs down to 30 percent of the total household income or lower, if warranted by the particular household circumstances. The Township will provide affordability assistance to applicants for very low-, low-, and moderate-income rental units. The following assistance will be available to low- and moderate-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed five hundred dollars (\$500.00) per household.
2. Rent subsidy for the first month's rent.
3. Utility deposit assistance.

The following assistance will be available to very low-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars (\$1,500.00) per household.
2. Rental security deposit paid to a landlord on behalf of a tenant– Security deposits paid to a landlord are to be returned to the Township's Affordable Housing Trust Fund upon termination of tenancy. The tenant is not responsible for returning the security deposit back to the Township. This transaction is completely between the landlord and the Township.
3. Rent subsidy for the first month's rent.
4. Utility deposit assistance.

Rental Affordability Assistance Procedures

The procedure for Rental Affordability Assistance is as follows:

1. Applicant submits application (Appendix C) and proof of Determination of Eligibility.
2. Administrative Agent reviews and processes application.
3. Administrative Agent notifies the Township and prepares resolution authorizing grant.
4. Township adopts Resolution.
5. For First Month's Rent Subsidy and Security Deposit Assistance: Township sends assistance directly to landlord.
6. For Utility Deposit Assistance: the check is given directly to utility company.
7. For Moving Expense Assistance: the check is given directly to the moving or truck rental company.
8. Administrative Agent records assistance on master reporting spreadsheet.

ADMINISTRATION

Washington's Affordability Assistance Programs will be managed by the Township Affordable Housing Administrative Agent. The availability of the Program shall be advertised continually on the Township's website. After an applicant is income qualified by the Administrative Agent pursuant to the Uniform Housing Affordability Controls, the applicant will complete and provide an affordability assistance application to the Administrative Agent.

For qualified and approved payment of moving expenses, the Administrative Agent will follow the Township purchasing and requisition process for generating a check that is made out to the

moving or truck company. Once the check is produced, the Administrative Agent provides it to the moving or truck company.

For qualified and approved payment of utility deposit, the Administrative Agent follows the Township purchasing and requisition process for generating a check that is made out to the utility company. Once the check is produced, the Administrative Agent provides it directly to the utility company.

The affordability assistance recipient will sign a contract with the Township of Washington that states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within the Township and provided to all Administrative Agents of affordable units within Washington and advertised on the Township's website.

An income eligible occupant or applicant for an affordable unit within the Township may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available pursuant to the Spending Plan.

ELIGIBILITY

The Affordability Assistance Program is open to all income-qualified households and is provided on a first-come, first-serve basis according to the following criteria:

1. The applicant is income certified. Applicants for assistance with first month's rent will have already been income certified. Applicants applying for all other types of assistance will require income certification at the time of application.
2. The applicant is seeking affordability assistance for a deed-restricted affordable unit in Washington Township to maintain as their primary residence.
3. The applicant has not received an affordability assistance grant in the past. Only one award per household is permitted. This requirement can be waived with justification.
4. There are Affordability Assistance Funds remaining in the budget for the year. This will include whether sufficient funds have been allocated to very low-income households.

ANNUAL BUDGET

The annual budget is provided in Appendix D of this manual as well as in the Township's Spending Plan. Please note that these are rough funding numbers which are subject to change.

MAXIMUM AMOUNT

The maximum amount of assistance that may be provided is detailed in Appendix D.

