

**TOWNSHIP OF MORRIS
MORRIS COUNTY – NEW JERSEY
ORDINANCE NO. 11-26**

AMENDING CHAPTER 95, ZONING AND CHAPTER 57, LAND DEVELOPMENT OF THE
CODE OF THE TOWNSHIP OF MORRIS

IT IS HEREBY ORDAINED by the Township Committee of the Township of Morris, Morris County, State of New Jersey, as follows:

Section 1: Chapter 95, Article XIV Sections 95-91 through 95-93; and Chapter 57, Part 11 of the Code of the Township of Morris is hereby amended, repealed, and revised to read as follows:

Article XIV, Affordable Housing and Development Fee Ordinance

§ 95-91. Affordable Housing.

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the Township of Morris 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., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
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 percent affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to affirmative marketing and random selection procedures set forth in UHAC.
3. The Township of Morris 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 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 proposed for credit in the municipality's most recently adopted HEFSP shall comply with the 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 a 15-year extended-use period, for a total of not less than 45 years.

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. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

“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 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 previously approved prior to March 20, 2024 (per P.L. 2024, c.2), 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 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. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

“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.

“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 that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project’s Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. 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. Very-low-income units are a subset of low-income units.

“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. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:
 - a. The municipality shall provide electronic monitoring data with the Department pursuant to P.L. 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department’s website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
 - b. On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal 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, for the previous year from January 1st to December 31st.
 - c. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

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 percent.
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.
7. In the event that the inclusionary set-aside of 20 percent of the total number of residential units does not result in a full integer, the developer shall choose one of two options for addressing the fractional unit:
 - a. The developer may round the set-aside upward to construct a whole additional affordable unit;
or

- b. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units and shall also contribute the fractional subsidy payment (“fractional subsidy payment”) to be made to the municipality and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the municipality as the average subsidy reflected in financial pro formas for 100 percent affordable housing or subsidized developments in the municipality or region on file with the municipality. For example, if seven total units are developed at an inclusionary site, a 20 percent set-aside would require 1.4 affordable units. Per the requirements above:

The developer shall round up the 0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units; or The developer shall round the set-aside downward so as to construct only one affordable unit AND shall pay into the municipal affordable housing trust fund a fractional subsidy payment equal to the dollar amount established by the municipality multiplied by 0.4.

E. 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.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
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.

F. New Construction Programs (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.).

- 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 shall be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to

municipal ordinance or, if not specified, shall be determined at the time of site plan approval.

- iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
- vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
- vii. Each bedroom in each restricted unit must have at least one window; and
- viii. Restricted units must include adequate air conditioning and heating.

4. Utilities.

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

5. Low/moderate split and bedroom distribution.

- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- b. In each affordable housing development, at least 50 percent of the restricted units within each bedroom distribution rounded up or down to the nearest whole number shall be very low- or low-income units. Morris Township has chosen to allow rounding.
- c. Within rental developments, of the total number of affordable rental units, at least 13 percent, 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 percent, rounded up or down to the nearest whole number, of the total number of low- and moderate-income units. Morris Township has chosen to allow rounding.

- iv. At least 30 percent of all low- and moderate-income units, rounded up or down to the nearest whole number, shall be two-bedroom units. Morris Township has chosen to allow rounding.
 - v. At least 20 percent of all low- and moderate-income units, rounded up or down to the nearest whole number shall be three-bedroom units. Morris Township has chosen to allow rounding.
 - 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 five percent 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 not all 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 percent 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 percent 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.
7. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
- 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, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit 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;
 - iii. 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.
 - iv. 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.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100 percent affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
8. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
- a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living

services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.

- b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 - d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
 - e. Low- and moderate-income residents cannot be charged any upfront fees.
 - f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
9. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - iii. Occupancy shall not be restricted to youth under 18 years of age.
 - iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - v. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan, if applicable, approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in

accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

- vii. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- viii. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with D1 above; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- ix. The sponsor/owner shall complete annual monitoring as directed by the MHL.

G. 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.

H. 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 percent of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
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. Very low-income units, if required, should be distributed between each bedroom count as proportionally as possible to the total number of restricted units within each bedroom count, and shall be part of the low-income requirement.

5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70 percent of median income, and each affordable housing development must achieve an affordability average that does not exceed 55 percent 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.
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.

11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following a minimum 90-day notice provided to the occupant household, 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." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3 and published by the Agency. This rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

I. 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, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5-1 et seq., and age-restricted units as permitted pursuant to 42 U.S.C. §§ 3601 et seq.), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50, 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 2 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 2 comprising Essex, Morris, Union, and Warren 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 municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of

initial sales and rentals and resales and re-rentals. 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 should 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. The affirmative marketing shall include posting of all affordable units with the following community and regional organizations FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, Morris County NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions Morristown, and Supportive Housing Association. 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 HUD-certified housing counselors or otherwise experienced entities approved by the Division providing counseling services 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 and may begin before construction commences. For owner-occupied units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.
 10. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of owner-occupied units, in which case, applications must be accepted for no less than 30 days.
 11. 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.
- J. 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.
- K. 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.

L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 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. The date of commencement shall be identified in the deed restriction.
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.
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.

M. 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.

N. 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 percent 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 percent of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80 percent 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 percent (40 percent 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 percent (40 percent 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;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments
- O. 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 percent 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).

P. 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 shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
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 percent 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.

Q. 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 five percent 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.

R. 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 percent 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 percent 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 percent 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 percent (40 percent 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 percent (40 percent 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 percent (40 percent 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.

S. 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.

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

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

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

U. Responsibilities of The Owner of a development containing affordable units.

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

- e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
3. In addition to (1), above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
- a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Realistic condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.
 - e. Flood insurance requirement, if applicable.
 - f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

V. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)),

following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.

4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
 - c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
 - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
 - e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase

being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

- f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.
 6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
 7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
 8. Appeals
 - a. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

W. Development Fees.

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

- b. The municipality shall not spend development fees until the court has approved a plan for spending such fees.

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5 percent of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d (5), developers shall be required to pay a “bonus” development fee of 6.0 percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5 percent of the equalized assessed value on the first two units; and the specified higher percentage of 6 percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. No development fee shall be collected for the demolition and replacement of an owner-occupied residential building resulting from a fire, flood, or natural disaster.

4. Non-Residential Development Fees

- a. Imposition of fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5 percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5 percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5 percent shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
 - b. Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5 percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
5. Collection Procedures
- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
 - b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as

per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
 - d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
 - e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
 - f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
 - g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
 - h. Fifty percent (50 percent) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
6. Appeal of development fees
- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
7. Affordable Housing Trust Fund
- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
 - b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10 percent of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;
 - v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
- i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings

to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.

- b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low-income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
- d. No more than 20 percent of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

9. Monitoring

- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

- a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
 - b. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).
11. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

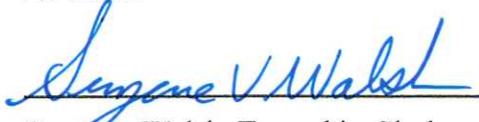
Section 2. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All Ordinances or part of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

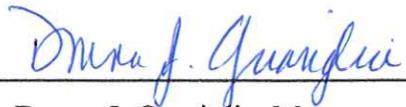
Section 4. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

The foregoing is a true copy of an ordinance introduced and adopted on first reading by the governing body of the Township of Morris on February 18, 2026.

ATTEST:


Suzanne Walsh, Township Clerk

TOWNSHIP OF MORRIS


Donna J. Guariglia, Mayor

INTRODUCTION: 2/18/2026
MASTER PLAN CONSISTENCY: 3/2/2026
ADOPTION: 3/9/2026

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of
the Township of Morris

Superior Court of New Jersey
Law Division, Civil Part

Docket No. MRS-L-270-25

**Program Decision Recommendation -
Housing Element and Fair Share Plan**

THIS MATTER, having come before the Affordable Housing Dispute Resolution Program (Program), pursuant to the Complaint for Declaratory Judgment filed in this matter on January 30, 2025 (DJ Complaint) by the Petitioner, the Township of Morris (“Township” or “Morris”), pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (FHA), and in accordance with Administrative Directive #14-24 and its Addenda, seeking a certification of compliance with the FHA;

AND IT APPEARS that on May 2, 2025, the Hon. Janine M. Allen, J.S.C. entered an Order as follows:

- (a) Establishing the Municipality’s Fourth Round “present need” at 9;
- (b) Establishing the Municipality’s Fourth Round “prospective need” at 375 ;

(c) Directing the Municipality to prepare and adopt a Housing Element and Fair Share Plan on or before June 30, 2025; and

(d) Granting the Municipality immunity from exclusionary zoning litigation; and

AND IT APPEARS that the Municipality timely adopted and filed the Municipality's Proposed Fourth Round Housing Element and Fair Share Plan (HEFSP);

AND IT APPEARS that challenges to the Municipality's Fourth Round HEFSP were timely filed by interested parties:

- Russo Acquisitions, LLC and SL Acquisitions, LLC;
- Danbro Properties (dismissed); and
- Fair Share Housing Center;

AND the Program having appointed Special Adjudicator Kendra Lelie, PP, AICP;

AND the Program Member having conducted conferences on October 21, 2025, October 31, 2025, December 4, 2025, and December 12, 2025, at which time Russo Acquisitions, LLC and SL Acquisitions, LLC, Fair Share Housing Center and the Township reached a settlement. The Danbro Properties challenge was dismissed. The settlement terms include, but are not limited to the following:

- (a) The Municipality's Present Need (Rehabilitation) Obligation is 9;

- (b) The Municipality’s Prospective Need Obligation (2025-2035) is 375 ;
- (c) The Municipality’s First and Second Rounds Prospective Need Obligation is 293;
- (d) The Municipality’s Third Round Prospective Need Obligation (1999-2025) is 767 which was adjusted to a Realistic Development Potential (RDP) of 450;
- (e) The Municipality shall satisfy its Prior Round and Fourth Round Obligations as follows:

Prior Round Obligation

Table 20. Prior Round Affordable Housing Credits

Project	Block/Lot	Tenancy	Units	Bonus Credits	Total	Status
Prior Cycle Credits= 100 units						
Morris Mews	B: 1901/L: 3	Age-Restricted Rentals	100 ¹		100	Complete
100 Percent Affordable Projects= 21 units and 6 rental bonus credits						
Dean A. Gallo Congregate Living	B: 1901/L: 2	Age-Restricted Rentals	19	6	25	Complete
MLK/Emmett Avenue	B: 10311/L: 21	Sales	2		2	Complete
Inclusionary Development Projects= 200 units						
Moore Estate	B: 7902/L: 1	Sales	64 ²		64	Complete
James St. Commons	B: 6705/L: 2	Sales	16 ²		16	Complete
Woodcrest (Oaks)	B: 9902/L: 48	Sales	21		21	Complete
Cory Road (Millrace)	B: 10311/L: 1	Sales	4		4	Complete
Village at Convent	B: 8301/L: 1	Sales	25		25	Complete
Rose Arbor	B: 1501/L: 1	Sales	70		70	Complete
Alternative Living/ Supportive and Special Needs Housing= 41 units and 41 rental bonus credits						
ARC House (1)	Confidential	Rental	15	15	30	Complete
Homeless Solutions Transitional Housing	Confidential	Rental	11	11	22	Complete
Allegro Autism School Group Home	Confidential	Rental	5	5	10	Complete
Delta Community Support	Confidential	Rental	4	4	8	Complete
ARC House (2)	Confidential	Rental	6	6	12	Complete
Total			362	47	409³	

³Surplus of 116 Units over 293 Unit Prior Round Obligation

¹ Of the total 100 affordable units at the Morris Mews project, the Township applied 62 units toward addressing its Prior Round obligation and 38 units toward addressing its Third Round Prospective Need obligation as part of a Prior Round surplus.

² The Township applied the 64 units at Moore Estate and 14 of the 16 total units at James Street Commons toward addressing its Third Round Prospective Need obligation as part of a Prior Round surplus.

³ The Township applied a 116 Prior Round surplus units towards addressing its Third Round Prospective Need obligation. These units will be from Morris Mews (38 units), Moore Estate (64 units), and James Street Commons (14 units).

Third Round Obligation

RDP: 450

Table 21. Projects Addressing Third Round Realistic Development Potential of 450 Units

Project	Block/Lot	Tenancy	Units	Bonus Credits	Total	Status
Prior Round Surplus Credits= 118 units						
Morris Mews	B: 1901/L: 3	Age- Restricted Rentals	38 ¹		38	Complete
Moore Estate	B: 7902/L:1	Sales	64		64	Complete
James St. Commons	B: 6705/L: 2	Sales	14 ¹		14	Complete
100 Percent Affordable Projects= 80 units and 37 rental bonus credits						
MCHA- 19 Carlton	B: 10304/ L: 25	Sales	5		5	Complete
MCHA- 6 Monroe Street/227 MLK Ave	B: 10307/ L: 14	Rentals	6	6	12	Complete
Homeless Solutions- Jean Street Apartments	B: 901/ L: 4.01	Rentals	15	15	30	Complete
Homeless Solutions- 24 Walnut	B: 10306/ L: 7	Rentals	2	2	4	Complete
Homeless Solutions- 88 MLK Ave	B: 10314/ L: 1	Rentals	2	2	4	Complete
Morris Ketch Road, LLC	B: 1901/L: 1 and 1.01 (portions)	Rentals	50	12	62	In process
Inclusionary Development Projects= 147 units and 76 rental bonus credits						
Honeywell Site	B: 9101/ L: 6-7	Sales	24		24	Complete
Colgate	B: 10401/ L: 3	Rental	66	42	108	Complete
Sisters of Charity	Portion of B: 8801/ L: 1	Rental	33	33	66	Planned
95 Mt. Kemble Avenue	B: 5506/ L: 25 B: 5605/ L: 5-8	Rental	23		23	Planned
975-403 Mt. Kemble Avenue	B: 5101/ L: 4-7	Sales	7		7	No longer viable
Grant Homes a.k.a. 122 Mt. Kemble Avenue	B: 5604/ L: 1	Rental	1		1	Complete
Total			343	112	455	

Surplus of 6 Units over 450 Unit RDP

¹ The Township applied Prior Round "surplus credits" toward its Third Round Prospective Need obligation as follows: 38 of the total 100 affordable units at Morris Mews, 14 of the total 18 affordable units at James Street Commons, and all 64 of the affordable units at Moore Estate.

Unmet Need:

Block/Lot	Density (dwelling units/ acre)	Set-Aside (%)	Overlay Zone
B: 10401/L: 2	12/15	15/20	MF-12/AH Overlay Zone
B: 10312/L: 1 B: 10313/L: 13	12/15	15/20	MF-10/AH Overlay Zone
B: 10103/L: 4	12/15	15/20	MF-10/AH Overlay Zone
B: 10103/L: 5	12/15	15/20	MF-10/AH Overlay Zone
B: 10104/ L: 1	12/15	15/20	MF-10/AH Overlay Zone
B: 10104/ L: 13	12/15	15/20	MF-10/AH Overlay Zone
B: 10001/ L: 7	12/15	15/20	MF-10/AH Overlay Zone
B: 10001/ L: 8	12/15	15/20	MF-10/AH Overlay Zone

Fourth Round Obligation

PROJECT	TYPE	UNITS	BONUSES	TENURES	STATUS	TOTAL
4 Old Turnpike/ Community Hope	Special needs/Supportive	5	5	Rental	Proposed	
60 Columbia	Family	84	42	18 Sales/ 66 Rental	Proposed	
100 Southgate	Family	21	10	Sales	Proposed	
300 Madison Ave	Family	24	12	Sales	Proposed	
227 Sussex Ave	Family	35		Sales	Proposed	
291 James Street	Family	3		Sales	Proposed	
Extension of Controls	Sales	134		Sales	Completed	
TOTAL		306	69			375

AND the Township and interested parties FSHC, Russo Acquisitions, LLC and SL Acquisitions, LLC, having executed written mediation agreements memorializing these settlement terms and filed them with the court (attached hereto as Exhibits A and B respectively);

AND the Municipality having represented it intends to adopt an Amended HEFSP in accordance with the terms of the settlements;

And the Program Member having considered the recommendation of the Special Adjudicator and the submissions and argument of the parties;

AND the Program Member having determined that the terms of the settlement are fair, reasonable and adequately protect the interests of low and moderate-income residents of the Municipality;

AND the Program Member having determined that the terms of the settlement are constitutionally compliant and provide a fair and reasonable opportunity for the Municipality to meet its obligations under the FHA and Mount Laurel doctrine;

AND for all those reasons, as well as those set forth in the Statement of Reasons (attached hereto as Exhibit C), the Program Member hereby recommends an ORDER directing that:

- (a) The settlement terms as set forth above are approved; and
- (b) The challenge of Danbro is dismissed;
- (c) In accordance with N.J.S.A. §52:27D-304.1(f)(2)(c), on or before March 15, 2026, the Municipality shall adopt and file its Amended HEFSP that contains the terms of the settlement as well as the implementing ordinances and resolutions proposed within the Amended HEFSP; and
- (d) Thereafter, the court shall schedule a HEFSP Confirmation Hearing (or if deemed necessary by the court 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); and

- (e) Grant the Municipality continued immunity from exclusionary zoning litigation for the duration of the compliance process conditioned upon the Municipality's compliance with its order and good faith implementation of the Amended HEFSP and good faith participation in the compliance process.

Respectfully Submitted by the Program:

By:

/s/ Hon. Stephan C. Hansbury
Hon. Stephan C. Hansbury, J.S.C. (Ret.)

Dated: February 5, 2026



Suzanne V. Walsh
TOWNSHIP CLERK

TOWNSHIP OF MORRIS

50 WOODLAND AVENUE PO BOX 7603
CONVENT STATION, NJ 07961
WWW.MORRISTWP.COM

RESOLUTION 265-25

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MORRIS AUTHORIZING THE EXECUTION OF A REVISED MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM

WHEREAS, the Township of Morris (the "Township") has been involved in matters related to affordable housing compliance under the New Jersey Fair Housing Act; and

WHEREAS, the Township Committee has determined it is in the best interest of the Township to participate in mediation through the Affordable Housing Dispute Resolution Program to resolve outstanding matters; and

WHEREAS, the Township previously authorized the execution of Mediation Agreement (the "Agreement") before the Affordable Housing Dispute Resolution Program via resolution adopted on December 8, 2025; and

WHEREAS, the Township has engaged in further negotiations and certain provisions of the Agreement have been revised; and

WHEREAS, the Township Committee believes that it is in the best interest of the Township to execute the revised agreement (the "Revised Agreement"); and

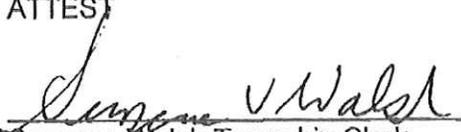
WHEREAS, the Township Committee desires to authorize the Mayor to execute the Revised Agreement and the Municipal Clerk to attest to the execution, in a manner substantially similar to that attached hereto as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Morris, County of Morris, State of New Jersey, that the Mayor is hereby authorized to execute any and all documents necessary to enter into the Revised Mediation Agreement before the Affordable Housing Dispute Resolution Program, in a manner substantially similar to that attached hereto as Exhibit "A", and the Municipal Clerk is authorized to attest to the execution of such documents.

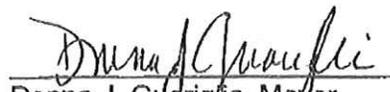
BE IT FURTHER RESOLVED, that a certified copy of this resolution be provided to the Township Attorney, the Township Affordable Housing Attorney, Affordable Housing Dispute Resolution Program and Fair Share Housing Center (FSHC).

I, Suzanne V. Walsh, Clerk of the Township of Morris, County of Morris, State of New Jersey do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body at a duly authorized meeting held on December 17, 2025.

ATTEST


Suzanne Walsh Township Clerk

MORRIS TOWNSHIP


Donna J. Guariglia, Mayor

REVISED MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of the Application of the Township of Morris, County of Morris,
Docket No. MRS-L-270-25

WHEREAS, the Township of Morris (the "Township") and Fair Share Housing Center ("FSHC") entered into Mediation Agreement (the "Agreement") amicably resolving the issues between the parties relating to the Township's Fourth Round housing Element and Fair Share Plan ("HEFSP") as adopted, endorsed and submitted to the Affordable Housing Dispute Resolution Program (the "Program") which, if approved would result in a compliance certification for the Township for the Fourth Round; and

WHEREAS, the parties have now agreed to amend the Agreement as follows in light of modifications made to the HEFSP as a result of issues raised at the Program Session and further negotiations with FSHC and another challenger in the Program:

1. The Chart at Paragraph 5 of the Agreement shall be revised as follows: Extension of Controls shall be revised to increase the number of Units from 121 to 134 units and reduce the number of Bonus credits from 25 to zero, and the Total of all units shall be reduced from 387 units to 375 units.
2. The section entitled "95 Mt. Kemble Avenue" in Paragraph 4 of the Agreement shall be replaced with the following:

95 Mt. Kemble Avenue. Toll Brothers was originally designated developer of the Mt. Kemble site but subsequently withdrew from the project. Russo Acquisitions, LLC and SL Acquisitions, LLC (collectively, "Russo") filed a challenge to the Township's Housing Element and Fair Share Plan with regards to this site on August 29, 2025. The Township and Russo engaged in ongoing, good faith discussions to modify the project as set forth in the Township's Third Round Housing Element and Fair Share Plan so as to provide at least the same number of affordable units (23 units), if not more, at the Property. Russo presented viable proposals, both on a stand alone basis entirely within the borders of the Township, as well as combined with the portion of the tract that is located in Morristown. The Township and Russo have now entered into a settlement agreement, dated December 16, 2025, to provide for the aforementioned 23 affordable units pursuant to a unit count table and concept plan associated therewith, and FSHC has determined that such settlement agreement and concept plan provides for a realistic opportunity for the creation of 23 units of affordable housing in the Fourth Round and accepts and endorses same accordingly.

3. All other provisions of the Agreement shall remain in full force and effect as set forth therein.

On behalf of Morris Township:



Donna J. Guariglia, Mayor

Date: December 17, 2025

On behalf of Fair Share Housing Center:



Adam M. Gordon, Esq.

Date: December 17, 2025



Suzanne V. Walsh
Township Clerk
(973) 326-7430

TOWNSHIP OF MORRIS

50 WOODLAND AVENUE PO BOX 7603
CONVENT STATION, NJ 07961
WWW.MORRISTWP.COM

RESOLUTION 251 -25

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MORRIS AUTHORIZING THE EXECUTION OF A MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM

WHEREAS, the Township of Morris (the "Township") has been involved in matters related to affordable housing compliance under the New Jersey Fair Housing Act; and

WHEREAS, the Township Committee has determined it is in the best interest of the Township to participate in mediation through the Affordable Housing Dispute Resolution Program to resolve outstanding matters; and

WHEREAS, execution of a mediation agreement is required to participate in the program (the "Agreement"); and

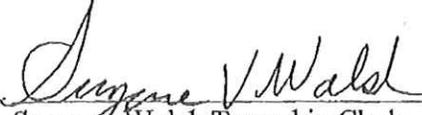
WHEREAS, the Township Committee desires to authorize the Mayor to execute Agreement and the Municipal Clerk to attest to the execution, in a manner substantially similar to that attached hereto as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Morris, County of Morris, State of New Jersey, that the Mayor is hereby authorized to execute any and all documents necessary to enter into a Mediation Agreement before the Affordable Housing Dispute Resolution Program, in a manner substantially similar to that attached hereto as Exhibit "A", and the Municipal Clerk is authorized to attest to the execution of such documents.

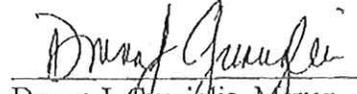
BE IT FURTHER RESOLVED, that a certified copy of this resolution be provided to the Township Attorney, Affordable Housing Dispute Resolution Program and Fair Share Housing Center (FSHC).

I, Suzanne V. Walsh, Clerk of the Township of Morris, County of Morris, State of New Jersey do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body at a duly authorized meeting held on December 8, 2025.

ATTEST


Suzanne Walsh Township Clerk

MORRIS TOWNSHIP


Donna J. Guariglia, Mayor

FAIR SHARE HOUSING CENTER

Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
Joshua D. Bauers, Esq.
Ashley J. Lee, Esq.
Esmé M. Devenney, Esq.
Arlela Rutbeck-Goldman, Esq.
Joelle L. Paull, Esq.

December 3, 2025

Via eCourts and Electronic Mail

Hon. Stephan C. Hansbury, J.S.C. (ret.)
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: IMO the Application of the Morris Township, County of Morris,
Docket No. MRS-L-270-25

Dear Judge Hansbury:

Enclosed please find a mediation agreement between Fair Share Housing Center (FSHC) and Morris Township. This agreement has been executed by FSHC with expectation that it will be approved by the Township on or before its next committee meeting on December 17, 2025. Special Adjudicator Kendra Lelic, PP, AICP, LLA, has endorsed this agreement.

FSHC appreciate Your Honor and the Special Adjudicator's assistance in this matter.

Sincerely,



Esmé M. Devenney, Esq.
Counsel for Fair Share Housing Center

C: Special Adjudicator Lelic
All counsel of record

MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM

In the Matter of the Application of the Township of Morris, County of Morris,
Docket No. MRS-L-270-25

WHEREAS, the Township of Morris (the “Township” or “Morris” or “municipality”) 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 30, 2025; and

WHEREAS, the Court entered an order on May 2, 2025 setting the Township’s Fourth Round fair share obligations as a Present Need of 9 units and a Prospective Need of 375 units, which no party appealed, and ordering the Township to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

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

WHEREAS, FSHC having made a filing with the Program pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Township’s HEFSP on August 25, 2025; and

WHEREAS, the Township and FSHC have agreed to amicably resolve the issues set forth in the filing through this mediation agreement and 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 Township for the Fourth Round;

THEREFORE, the Township and FSHC agree:

Fair Share Obligations

1. The Township's Present Need or Rehabilitation Obligation is 9, the Township's Prior Round Obligation (1987-1999) is 293, the Township's Third Round Obligation (1999-2025) is 767, the Township's Fourth Round Prospective Need (2025-2035) is 375 units.

Satisfaction of Fair Share Obligations

2. The Township will address its Present Need via participation in the Morris County Community Development Program and as otherwise administered by Rehabco, Inc., which has been appointed to administer Morris Township's rehabilitation program.
3. The Township's Prior Round Obligation is 293 and has been met with the following mechanisms:

Table 20. Prior Round Affordable Housing Credits

Project	Block/Lot	Tenancy	Units	Bonus Credits	Total	Status
Prior Cycle Credits= 100 units						
Morris Mews	B: 1901/L: 3	Age-Restricted Rentals	100 ¹		100	Complete
100 Percent Affordable Projects= 21 units and 6 rental bonus credits						
Dean A. Gallo Congregate Living	B: 1801/L: 2	Age-Restricted Rentals	19	6	25	Complete
MLK/Emmett Avenue	B: 10311/L: 21	Sales	2		2	Complete
Inclusionary Development Projects= 200 units						
Moore Estate	B: 7902/L: 1	Sales	64 ²		64	Complete
James St. Commons	B: 6705/L: 2	Sales	16 ³		16	Complete
Woodcrest (Oaks)	B: 8902/L: 48	Sales	21		21	Complete
Cory Road (Millrace)	B: 10311/L: 1	Sales	4		4	Complete
Village at Convent	B: 8301/L: 1	Sales	25		25	Complete
Rose Arbor	B: 1501/L: 1	Sales	70		70	Complete
Alternative Living/ Supportive and Special Needs Housing= 41 units and 41 rental bonus credits						
ARC House (1)	Confidential	Rental	15	15	30	Complete
Homelosa Solutions Transitional Housing	Confidential	Rental	11	11	22	Complete
Allegro Autism School Group Home	Confidential	Rental	5	5	10	Complete
Doito Community Support	Confidential	Rental	4	4	8	Complete
ARC House (2)	Confidential	Rental	6	6	12	Complete
Total			362	47	409³	

¹ Of the total 100 affordable units at the Morris Mews project, the Township applied 62 units toward addressing its Prior Round obligation and 38 units toward addressing its Third Round Prospective Need obligation as part of a Prior Round surplus.

² The Township applied the 64 units at Moore Estate and 14 of the 16 total units at James Street Commons toward addressing its Third Round Prospective Need obligation as part of a Prior Round surplus.

³ The Township applied a 116 Prior Round surplus units towards addressing its Third Round Prospective Need obligation. These units will be from Morris Mews (38 units), Moore Estate (64 units), and James Street Commons (14 units).

4. The Township's Third Round Obligation is 767 and shall be met with the following mechanisms:

Realistic Development Potential (RDP) of 450:

Table 21. Projects Addressing Third Round Realistic Development Potential of 450 Units

Project	Block/Lot	Tenancy	Units	Bonus Credits	Total	Status
Prior Round Surplus Credits= 116 units						
Morris Mews	B: 1901/L: 3	Age- Restricted Rentals	38 ¹		38	Complete
Moore Estate	B: 7902/L: 1	Sales	64		64	Complete
James St. Commons	B: 6705/L: 2	Sales	14 ¹		14	Complete
100 Percent Affordable Projects= 80 units and 37 rental bonus credits						
MCHA- 19 Cortton	B: 10304/ L: 25	Sales	5		5	Complete
MCHA- 6 Monroe Street/227 MLK Ave	B: 10307/ L: 14	Rentals	6	6	12	Complete
Homeless Solutions- Jean Street Apartments	B: 991/ L: 4.01	Rentals	15	15	30	Complete
Homeless Solutions- 24 Walnut	B: 10306/ L: 7	Rentals	2	2	4	Complete
Homeless Solutions- 08 MLK Ave	B: 10314/ L: 1	Rentals	2	2	4	Complete
Morris Ketch Road, LLC	B: 1801/L: 1 and 1.01 (portions)	Rentals	50	12	62	In process
Inclusionary Development Projects= 147 units and 75 rental bonus credits						
Honeywell Site	B: 9101/ L: 6-7	Sales	24		24	Complete
Colgate	B: 10401/ L: 3	Rental	66	42	108	Complete
Sisters of Charity	Portion of B: 8801/ L: 1	Rental	33	33	66	Planned
95 Mt. Kemble Avenue	B: 5606/ L: 25 B: 5605/ L: 5-8	Rental	23		23	Planned
675-103 Mt. Kemble Avenue	B: 5101/ L: 4-7	Sales	7		7	No longer viable
Grant Homes a.k.a. 122 Mt. Kemble Avenue	B: 5604/ L: 1	Rental	1		1	Complete
Total			343	112	455	

Surplus of 5 Units over 450 Unit RDP

¹ The Township applied Prior Round "surplus credits" toward its Third Round Prospective Need obligation as follows: 38 of the total 100 affordable units at Morris Mews, 14 of the total 18 affordable units at James Street Commons, and all 64 of the affordable units at Moore Estate.

95 Mt. Kemble Avenue. Toll Brothers was originally designated developer of the Mt. Kemble site but subsequently withdrew from the project. Russo Acquisitions, LLC and SL Acquisitions, LLC (collectively, "Russo") filed a challenge to the Township's Housing Element and Fair Share Plan with regards to this site on August 29, 2025. The Township and Russo have engaged in ongoing, good faith discussions with the Township to modify the project as set forth in the Township's Third Round Housing Element and Fair Share Plan so as to provide at least the same number of affordable units (23 units), if not more, at the Property. Russo has presented viable proposals that are being seriously considered by the Township, both on a stand alone basis entirely within the borders of the Township, as well as combined with the portion of the tract that is located in Morristown. No later than December 15, 2025, the Township shall present a proposed resolution of this challenge that creates a realistic opportunity for at least 23 affordable units on the site to FSHC and Russo, and regardless of Russo's position on the same, FSHC will accept such proposal for the development of affordable housing in the 4th

Round as long as the proposal creates a realistic opportunity for at least 23 affordable units on the site.

Sisters of Charity. On October 16, 2025, S. Maureen Shaughnessy, SC, General Superior, Sisters of Charity of Saint Elizabeth provided an update confirming that the Sisters of Charity of Saint Elizabeth (SCSE) are not requesting any changes to the maximum permitted density or any other aspects of the existing inclusionary zoning applicable to the Sisters of Charity site. The letter explains that ongoing litigation at the Florham Park site delayed the development process in Morris Township and that the Sisters continue to support inclusionary zoning on the site. A supplemental letter from Thomas Carrol, III, Esq., of Hill Wallack, LLP, on behalf of SCSE, dated November 12, 2025, reiterated same and further confirmed that the present intention of the Sisters is to proceed with the sale and development of the Morris Township site during the Fourth Round, and further confirmed that, while a developer has not yet been formally identified, there have been expressions of interest from developers to purchase and develop the site. FSHC agrees that the Sisters of Charity site remains a realistic opportunity for the development of affordable housing in the 4th Round.

The RDP of 450 resulted in an unmet need of 317, which shall be addressed through the following mechanism:

On May 24, 2018, the Township adopted MF-10/AH Multifamily Affordable Housing Overlay Zone and MF-12/AH Multifamily Affordable Housing Overlay Zone by Ordinance No. 15-18 to provide a realistic opportunity for the development of affordable housing permitting multifamily housing sites each with a mandatory set aside.

Pursuant to the 2023 Global Agreement related to the Red Bulls soccer facility, the Township was required to increase the densities in the MF-10/AH zone to 12 dwelling units per acre (from 10 dwelling units per acre) with a 15 percent set-aside and a density of 15 units per acre with a 20 percent set aside. The Township adopted the revised overlay zoning on Jun 21, 2023 by Ordinance No. 13-23. Additionally, Block 10001, Lot 7 located on Lindsley Drive was added to the MF-10/AH zone.

A summary of the overlay zones adopted to address Morris Township’s Third Round Unmet Need obligation pursuant to the 2017 Settlement Agreement and 2023 Global Agreement are provided below.

Block/Lot	Density (dwelling units/ acre)	Set-Aside (%)	Overlay Zone
B: 10401/L: 2	12/15	15/20	MF-12/AH Overlay Zone
B: 10312/L: 1 B: 10313/L: 13	12/15	16/20	MF-10/AH Overlay Zone
B: 10103/ L: 4	12/15	15/20	MF-10/AH Overlay Zone
B: 10103/ L: 5	12/15	15/20	MF-10/AH Overlay Zone
B: 10104/ L: 1	12/16	15/20	MF-10/AH Overlay Zone
B: 10104/ L: 13	12/15	15/20	MF-10/AH Overlay Zone
B: 10001/ L: 7	12/15	15/20	MF-10/AH Overlay Zone
B: 10001/ L: 8	12/16	15/20	MF-10/AH Overlay Zone

5. The Township shall satisfy its Fourth Round obligation of 375 with the following mechanisms:

MECHANISMS	TYPE	UNITS	BONUS	TENURES	STATUS	TOTAL
4 Old Turnpike/ Community Hope	Special needs/ Supportive	5	5	Rental	Proposed	
60 Columbia -- Inclusionary Development	Family	84	42	18 Sales/ 66 Rental	Proposed	
100 Southgate -- Inclusionary Development	Family	21	10	Sales	Proposed	
300 Madison Ave -- Inclusionary Development	Family	24	12	Sales	Proposed	
227 Sussex Ave -- Inclusionary Development	Family	35		Sales	Proposed	
291 James Street -- Inclusionary Development	Family	3		Sales	Proposed	
Extension of Controls	Sales	121	25	Sales	Completed	
TOTAL		293	94			387

Unit Type and Income Distribution Requirements

6. The Township and FSHC agree that the Township'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 Township shall maintain satisfaction with such requirements for the Fourth Round:

- Age Restricted Cap. The Township 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.

- Family units. Pursuant to N.J.S.A. 52:27D-311(l), the municipality 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).
 - 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.
 - Very Low-Income Units. Pursuant to N.J.S.A. 52:27D-329.1, thirteen percent (13%) of all affordable units referenced in this Agreement addressing the municipality's Prospective Need obligation shall be very-low-income units for households earning thirty percent (30%) or less of the median income, with half of the very low income units being available to families.
 - All new construction units shall be adaptable in conformance with P.L.2005, c.350/ N.J.S.A. 52:27D-311a and -311b and all other applicable law.
 - 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 municipality, statutory requirements, and the Prior Round and Third Round regulations.
7. In all developments that produce affordable housing, the Township and FSHC agrees 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 rounds 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 municipality agrees that in order to meet the low income and very low income requirement of the Fair Housing Act that it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that fifty percent (50%) of the

affordable units within each bedroom distribution shall be required to be for low income households earning fifty percent (50%) or less of median income, including thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty percent (30%) or less of median income.

- d. The municipality 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.

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 New Jersey State Conference of the NAACP, the Latino Action Network, Morris County NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions Morristown, and Supportive Housing Association.

Process for Approval and Implementation

8. 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:

- The municipality and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
- The Program member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mt. Laurel judge for review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.
- The municipality 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 Township shall file the information required by Paragraph 10 and any other adopted ordinances and resolutions on eCourts.

- No later than April 15, 2026, the Township 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.
 - 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.
9. The municipality 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 15. FSHC will submit comments to Morris Township by February 5, 2026:
- The Township will provide draft ordinances for the 100 Southgate Parkway, 300 Madison Avenue, 291 James Street, 60 Columbia Road, 227 Sussex Avenue, and 95 Mt. Kemble sites and adopt them by March 15, 2026.
 - The Township will provide the income distribution for the Ketch Road site.
 - The Township will provide a UHAC compliant deed restriction for Colgate.
 - The Township will provide resolutions appointing the Municipal Housing Liaison and Administrative Agent(s) in accordance with the forthcoming N.J.A.C. 5:99.
 - The Township will provide the affordability assistance program manual.
 - The Township 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.
 - The Township will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the forthcoming regulations at N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. after they are adopted and before March 15, 2026.

10. The Township's Compliance Certification shall be subject to required ongoing monitoring as follows:

- The Township by February 15, 2026, and annually, agrees to provide the Department of Community Affairs and to post a copy on the municipal website with a copy of such posting provided to Fair Share Housing Center with a detailed accounting of all development fees and any other payments into its trust fund that have been collected and expended in the previous year.
- The Township by February 15, 2026, and annually, agrees to provide the Department of Community Affairs and to post a copy on the municipal website with a copy of such posting provided to Fair Share Housing Center with an up-to-date municipal status report based on its collection and publication of information concerning the number of affordable of housing units actually constructed, construction starts, certificates of occupancy granted, the start and expiration dates of deed restrictions, and residential and non-residential development fees collected and expended, including purposes and amounts of such expenditures, along with the current balance in the municipality's affordable housing trust funds. 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.
- For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Township 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 in the housing element and fair share plan 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 by law, absent the need to invoke the rule of necessity.

On behalf of Morris Township:



Date: December 8, 2025

On behalf of Fair Share Housing Center:



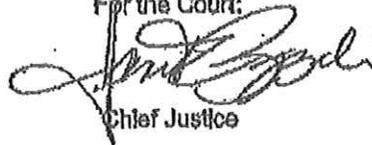
Adam M. Gordon, Esq.

Date: December 2, 2025

SUPREME COURT OF NEW JERSEY

Pursuant to Rule 1:13-2(a), it is ORDERED that the payment of filing fees, other fees, and charges of public officers for service of process in connection with actions filed by the Fair Share Housing Center shall be waived; this Order is effective immediately and until further order of the Court.

For the Court:



Chief Justice

Dated: January 16, 2007



Suzanne V. Walsh
TOWNSHIP CLERK

TOWNSHIP OF MORRIS

50 WOODLAND AVENUE PO BOX 7603
CONVENT STATION, NJ 07961
WWW.MORRISTWP.COM

RESOLUTION 264-25

(page 1 of 2)

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MORRIS AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF MORRIS AND RUSSO ACQUISITIONS, LLC AND SL ACQUISITIONS, LLC

WHEREAS, the Township of Morris (the "Township") has been involved in matters related to affordable housing compliance under the New Jersey Fair Housing Act; and

WHEREAS, on January 30, 2025, the Township filed a 4th Round declaratory judgment action captioned I/M/O the Application of the Morris Township, Docket No. MRS- L-270-25 (the "**DJ action**"), seeking a determination that it complied with its 4th Round affordable housing obligations under the Amended Fair Housing Act (the "**AFHA**"), and the Township filed an adopted 4th Round Housing Element and Fair Share Plan (the "**4th Round HEFSP**") in the DJ action on June 17, 2025, and the Township filed its endorsement of the 4th Round HEFSP in the DJ action on June 19, 2025; and

WHEREAS, on August 29, 2025, Russo Acquisitions, LLC and SL Acquisitions, LLC (collectively, "Russo") filed a challenge to the 4th Round HEFSP ("Russo's Challenge"); and

WHEREAS, Russo is the contract purchaser of real property located in the Township and identified as Block 5506, Lot 25 ("Northern Parcel") and Block 5605, Lots 5, 6, 7 & 8 ("Southern Parcel") and located at 95, 102, 106 & 108 Mt Kemble Avenue (the Northern Parcel and Southern Parcel collectively the "Property"); and

WHEREAS, the Property is part of the Township's Third Round HEFSP and in order to implement the Township's Third Round HEFSP the Township adopted the Mt. Kemble Avenue Redevelopment Plan, dated May 2018 (the "Redevelopment Plan") which permitted development of the Property with up to 115 residential units including 23 affordable units; and

WHEREAS, to date no affordable housing has been constructed on the Property pursuant to the Redevelopment Plan; and

WHEREAS, Russo desires to develop the Property with an inclusionary development; and

WHEREAS, Russo is amenable to fully and finally resolving Russo's Challenge premised upon the Township's promise to zone the Property for a residential inclusionary development pursuant to the density and the terms set forth in a Settlement Agreement in a manner substantially similar to that attached hereto as **Exhibit "A"**; and

WHEREAS, the Township Committee has determined it is in the best interest of the Township to enter into the Settlement Agreement with Russo; and

WHEREAS, the Township Committee desires to authorize the Mayor to execute the Settlement Agreement and the Municipal Clerk to attest to the execution, in a manner substantiality similar to that attached hereto as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Morris, County of Morris, State of New Jersey, that the Mayor is hereby authorized to execute any and all documents necessary to enter into the Settlement Agreement in a manner substantially similar to that attached hereto as Exhibit "A", and the Municipal Clerk is authorized to attest to the execution of such documents.



Suzanne V. Walsh
TOWNSHIP CLERK

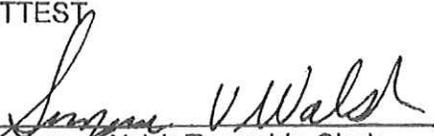
TOWNSHIP OF MORRIS

50 WOODLAND AVENUE PO BOX 7603
CONVENT STATION, NJ 07961
WWW.MORRISTWP.COM

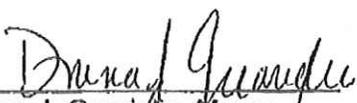
RESOLUTION 264-25
(page 2 of 2)

I, Suzanne V. Walsh, Clerk of the Township of Morris, County of Morris, State of New Jersey do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body at a duly authorized meeting held on December 16, 2025.

ATTEST


Suzanne Walsh Township Clerk

MORRIS TOWNSHIP


Donna J. Guariglia, Mayor

Settlement Agreement between Morris Township and Russo Acquisitions, LLC and SL Acquisitions, LLC

This settlement agreement is entered into on the 17th day of December, 2025 by and between Morris Township (the “Township”) and Russo Acquisitions, LLC and SL Acquisitions, LLC (collectively “Russo”) (the Township and Russo each being a “Party” or collectively “Parties”) in consideration of the mutual promises set forth below;

WHEREAS, on January 30, 2025, the Township filed a 4th Round declaratory judgment action captioned I/M/O the Application of the Morris Township, Docket No. MRS- L-270-25 (the “**DJ action**”), seeking a determination that it complied with its 4th Round affordable housing obligations under the Amended Fair Housing Act (the “**AFHA**”), and the Township filed an adopted 4th Round Housing Element and Fair Share Plan (the “**4th Round HEFSP**”) in the DJ action on June 17, 2025, and the Township filed its endorsement of the 4th Round HEFSP in the DJ action on June 19, 2025; and

WHEREAS, on August 29, 2025, Russo filed a challenge to the 4th Round HEFSP (“Russo’s Challenge”); and

WHEREAS, Russo is the contract purchaser of real property located in the Township and identified as Block 5506, Lot 25 (“Northern Parcel”) and Block 5605, Lots 5, 6, 7 & 8 (“Southern Parcel”) and located at 95, 102, 106 & 108 Mt Kemble Avenue (the Northern Parcel and Southern Parcel collectively the “Property”); and

WHEREAS, the Property is part of the Township's Third Round HEFSP and in order to implement the Township's Third Round HEFSP the Township adopted the Mt. Kemble Avenue Redevelopment Plan, dated May 2018 (the "Redevelopment Plan") which permitted development of the Property with up to 115 residential units including 23 affordable units; and

WHEREAS, to date no affordable housing has been constructed on the Property pursuant to the Redevelopment Plan; and

WHEREAS, Russo desires to develop the Property with an inclusionary development; and

WHEREAS, Russo has taken the position that, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(a), referred to as the "look back" provision of the AFHA, the Redevelopment Plan applicable to the Property requires modifications to provide for a realistic opportunity for the production of affordable housing on the Property, and, while not conceding same, the Township is amicable to resolving Russo's Challenge as set forth below; and

WHEREAS, Russo is amenable to fully and finally resolving Russo's Challenge premised upon the right to construct a 139-unit residential inclusionary development on the Property pursuant to the terms set forth herein; and

WHEREAS, the Parties wish to enter into this Agreement setting forth the terms, conditions, responsibilities and obligations of the Parties, and seek the Program and County Mount Laurel Judge's approval of this Agreement as part of the DJ Action.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

A. General

1. By March 15, 2026, the Township will adopt an amendment to the Redevelopment Plan ("Redevelopment Plan Amendment") to implement the terms and conditions herein and permit Russo to develop the Property with the proposed inclusionary development shown on the concept plans attached hereto as **Exhibit A** and fully incorporated herein.
2. In the event of any legal challenges to this Settlement or the Redevelopment Plan Amendment, including a challenge by any third party, the Parties agree to diligently defend any such challenge and the Parties shall cooperate with each other regarding said defense. In addition, if any such challenge results in a modification of this Agreement or of the Redevelopment Plan Amendment, the Parties must negotiate in good faith with the intent to draft a mutually acceptable amended Agreement.
3. The Township shall maintain the rezoning of the Property (the Redevelopment Plan Amendment) for the duration of the Fourth Round, to July 1, 2035, and shall not amend the Redevelopment Plan Amendment unless mutually agreed upon by the Parties or required by court order, outside administrative body decision or resolution.

B. Zoning and Design Standards

1. The Northern Parcel will be zoned to permit multi-family rental housing and permit a total of up to 117 family rental units and the Southern Parcel will be zoned to permit townhomes, including stacked townhomes, and permit a total of up to 43 townhome/stacked townhome units, however, the combined total of units will not exceed 139 units on the Property.
2. It is understood that the Redevelopment Plan is still developing and certain parameters could not be quantified at the time of this Agreement. The Township will work in good faith to amend the Redevelopment Plan to permit the development of the project as presented in the attached **Exhibit A** and zoning table attached hereto as **Exhibit B**.
3. The Northern Parcel is designated an area in need of redevelopment and the Southern Parcel is designated an area in need of rehabilitation. Despite the obligation to amend the Redevelopment Plan, and notwithstanding the provisions contained above, the Parties agree that nothing in this agreement prevents the Township from studying and designating the Southern Parcel an area of need in redevelopment in a manner consistent with this agreement and the proposed zoning herein

C. Affordable Housing Requirements

1. The proposed development shall be an inclusionary development providing for twenty-three (23) affordable units located in the Township. The 23 affordable units will include between 16 and 20 family rental units on the Northern Parcel and between 3 and 7 stacked townhome affordable units on the Southern Parcel for a total of 23 affordable units.
2. The twenty-three (23) affordable units will comply with all applicable UHAC requirements, including, but not limited to, income and bedroom distribution requirements.
3. The project proposed for the Property is a Third Round site that was part of a final judgment of compliance and repose from Morris County Superior Court prior to the effective date of the 2024 UHAC

Amendments and as such, pursuant to N.J.A.C. 5:80-26.5 (a) is exempt from the unit size requirements of N.J.A.C. 5:80-26.5 (b)(2)(viii).

D. Parties' Obligations to Cooperate

1. Russo shall obtain, and the Township will reasonably cooperate with Russo's efforts to obtain, all necessary and applicable agreements, approvals, and permits from all outside public entities and utilities; such as, by way of example only, the County of Morris, the Morris County Planning Board, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, the Town of Morristown, the Town of Morristown Planning Board, and all applicable utilities. The Township agrees to use all reasonable efforts to assist Russo in its undertakings to obtain all these approvals.
2. The Township and the Planning Board shall not impose any unnecessary cost generative requirements on the proposed development. "Unnecessary cost generative requirements" are defined as those requirements referenced in N.J.A.C. 5:93-10.2(a)(1) thru (6).
3. The Township will, after reasonable assurances are provided to the Township by way of documentation and the Township afforded a reasonable period of due diligence designate (i) Russo, (ii) any partnership, corporation, limited liability company, joint venture or other legal entity of which Russo or any affiliate thereof is a majority or controlling owner; (iii) any partnership, corporation, limited liability company or other legal entity to which Russo or any affiliate thereof is the beneficial owner or they are collectively the beneficial owners or (iv) any duly qualified entity which is owned, controlled by or is an affiliate of the Russo as redeveloper of the Property, within a reasonable time not to be less than 35 days or more than 60 days of a request by same.
4. While the Planning Board is not a party to this agreement, the Township will request the Planning Board process Russo's applications with reasonable diligence, expedite the processing of Russo's development applications and cooperate in scheduling special meetings, if necessary.

E. Utilities

1. The Township reasonably believes there is adequate potable water and sewer capacity to service the proposed project but same is the obligation of Russo/the developer and not the Township.

F. Procedure

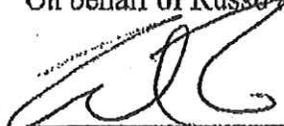
1. The Parties will jointly present this settlement agreement to the Program for review and approval by the Program and County Mount Laurel Judge. Russo shall not directly or indirectly oppose or undertake any action to interfere with the Program or Court's adjudication of the Township's 4th Round HEFSP, or the entry of a Final Judgment regarding same. Russo shall also not directly or indirectly oppose or undertake any action to interfere with the Program or Court's approval and/or implementation of the 4th Round HEFSP, as it may be amended in any form, unless the 4th Round HEFSP deprives Russo of any rights created hereunder, or unless any other defendants or interested parties undertake any action to obstruct or impede Russo from securing such approvals as it needs to develop the Property as set forth herein and pursuant to the Redevelopment Plan Amendment.
2. The Township shall adopt the Redevelopment Plan Amendment required under this settlement agreement no later than March 15, 2026.
3. In the event of any legal challenges to the Court's approval of this Agreement including a challenge by any third party, the Parties agree to diligently defend any such challenge and the Parties shall cooperate with each other regarding said defense.
4. 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.

On behalf of the Township of Morris, with the authorization
of the governing body:


_____. Date: December 17, 2025
[Donna Guariglia, Mayor]

On behalf of Russo Acquisitions, LLC and SL Acquisitions, LLC



Edward Russo, Manager

Date: 12/17/25



Blake Silverman, Manager

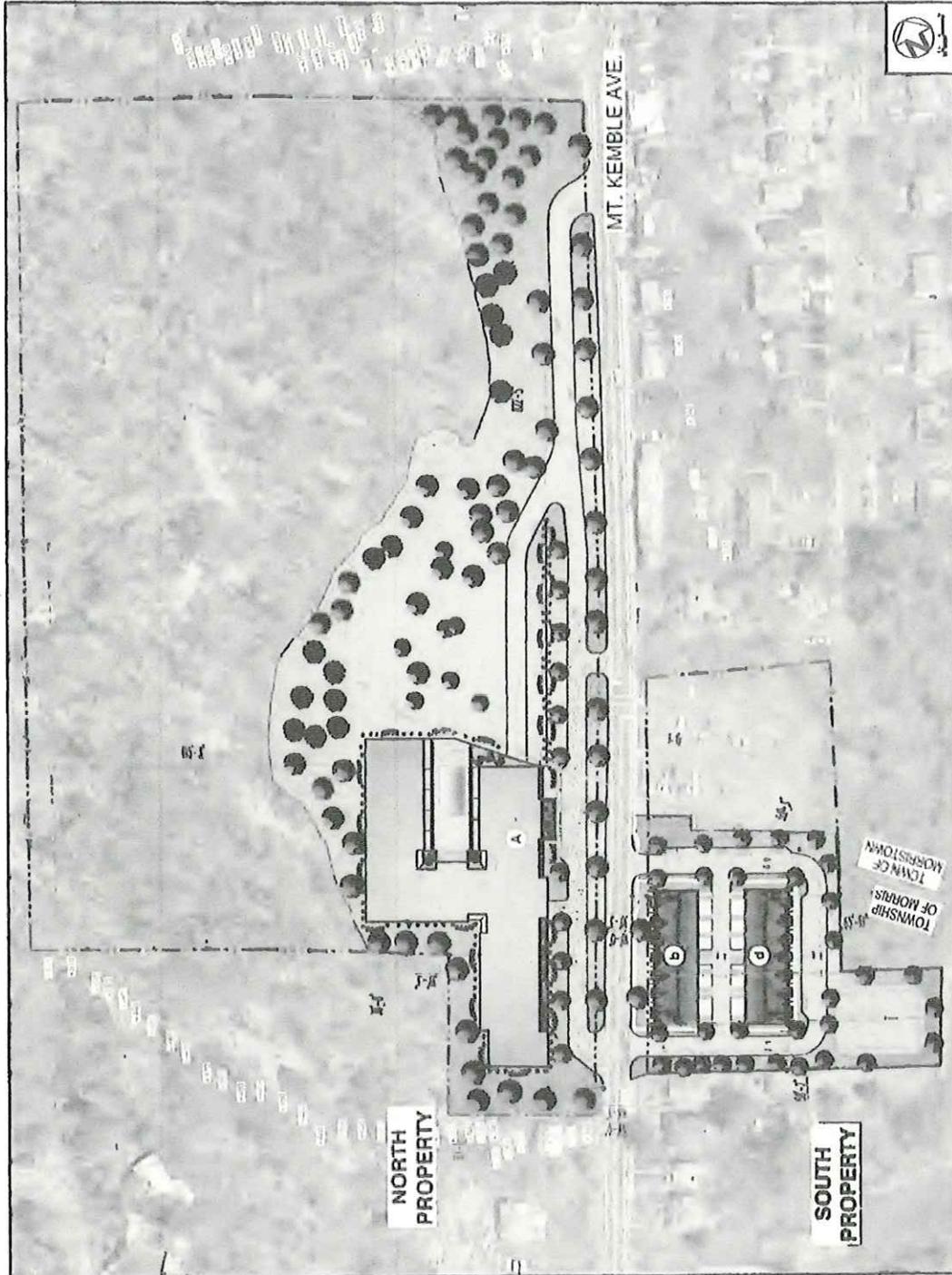
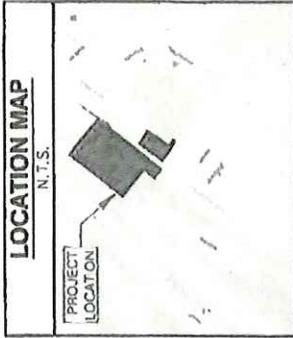
Date: 12/17/25

95 Mt. Kemble
 Morristown, NJ
Density/Bulk Rollos
 12.17.2025

Table Standard	2010 Rezoning Plan	Proposed	Notes
Apartment District			
Market Rate Units	Unspecified	84 units	Den units & 3 BR units permitted.
Affordable Units	23 units	17 units	
Total Units⁽¹⁾	Unspecified	101 units	
Total Units per Acre			
Minimum Setbacks			
To Mt. Kemble	50'	Unchanged	
To Municipal Line	0'	Unchanged	
To Western Neighbor (B: 5602 L: 36)	60'	Unchanged	
To All Other Property Lines	30'	Unchanged	
Landscape Requirements			
Landscape Buffer from (B: 5602 L: 36)	50'	Unchanged	Buffer requirements do not apply to Mt. Kemble Ave Property Line. Requirement applies only those steep sloped area post-construction.
Landscape Buffer from all other sides	25'	Unchanged	
Steep Slopes greater than 15%	Conserv. Easement	Unchanged	
Minimum Lot Area	7.00 acres	7.00 acres	
Max Lot Coverage	40.00%	Unchanged	
Max Building Coverage	20.00%	21.00%	
Max Building Height	4 stories/45'	5 stories/60'	
Parking Spaces	177	Unchanged	
Parking Ratio	1BR = 1.5; 2BR/3BR = 2	Unchanged	
Townhome District			
Market Rate Units	Unspecified	32 units	Developer shall have the ability to do either stacked or conventional townhomes.
Affordable Units	0 units	6 units	
Total Units⁽²⁾	26 units	38 units	
Total Units per Acre			
Setbacks			
To Mt. Kemble	20'	+/- 6' (26' to curb)	Measured to curb side parking.
To Municipal Line	5'	0'	
To Western Neighbor (B: 5605 L: 4)	25'	Unchanged	
To all other property lines	25'	Unchanged	
Parking	25'	Unchanged	
Lot Area	2.00 acres	Unchanged	
Lot Coverage	60.00%	Unchanged	
Building Coverage	40.00%	Unchanged	
Building Height	3 stories/35'	3 stories/40'	
Misc. Regulations			
Max Units in a group	10	15	
Parking Spaces	RSIS	Unchanged	
Parking	RSIS	Unchanged	

Notes:

- Developer will have the right to increase the total apartment phase unit count up to a max of 16 units if the developer reduces the number of units in the townhome phase by an equal amount. In no event would the total units between the two phases equal more than 139 units.
- Developer will have the right to increase the total townhome phase unit count up to a max of 5 units if the developer reduces the number of units in the apartment phase by an equal amount. In no event would the total units between the two phases equal more than 139 units.



**CONCEPTUAL
SITE PLAN
A1.1**

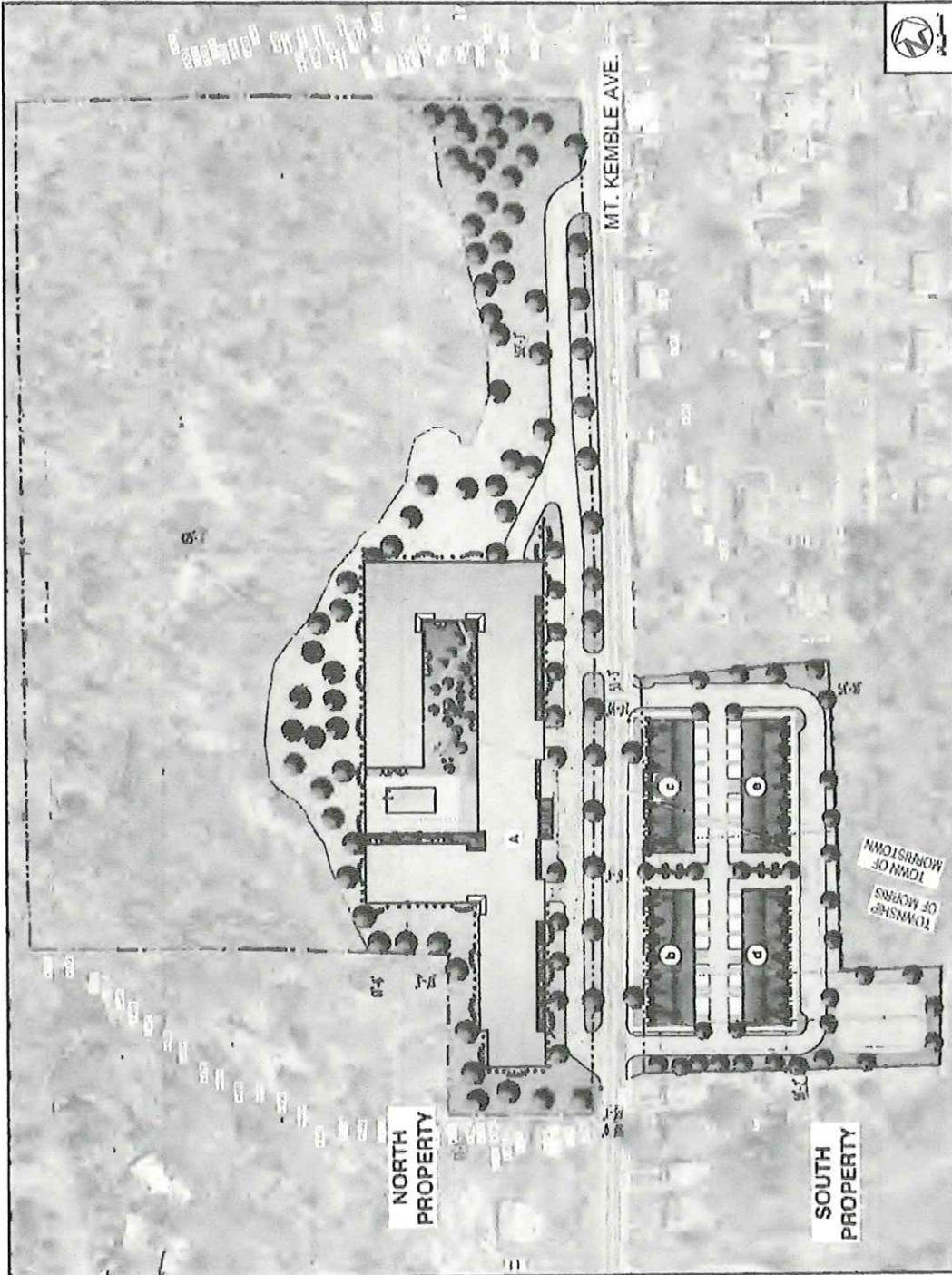
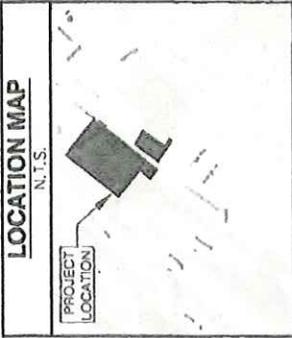
Date: 12/08/25
CSP-1.3

**PROPOSED RESIDENTIAL AT
95 MOUNT KEMBLE AVE.**

TOWNSHIP OF MORRIS & TOWN OF MORRISTOWN, MORRIS COUNTY, NEW JERSEY

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**CONCEPTUAL
SITE PLAN
A1.1**

Date: 12/05/25
CSF 1

PROPOSED RESIDENTIAL AT

95 MOUNT KEMBLE AVE.

TOWNSHIP OF MORRIS & TOWN OF MORRISTOWN, MORRIS COUNTY, NEW JERSEY



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PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of the Township of Morris	Superior Court of New Jersey Law Division, Civil Part
	Docket No. MRS-L-270-25

Statement of Reasons

The FHA declared that the State’s “preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder's remedy as a method of achieving fair share housing.” N.J.S.A. §52:27D-303. To that end, the FHA directed the Program to facilitate settlement between a municipality and any interested parties that filed a challenge to the municipality’s HEFSP and give the municipality until December 31, 2025, to commit to revise its HEFSP or provide an explanation for why it will not make all or some of the requested changes. N.J.S.A. §52:27D-304.1(f)(2)(b). Upon resolution of a challenge, the Program shall issue a compliance certification conditioned upon the municipality’s “commitment, as necessary, to revise its fair share plan and housing element in accordance with the

resolution of the challenge.” Ibid. The Program may also terminate immunity if it finds that the municipality is not in constitutional compliance at any point in the process. Ibid.

Despite the Legislature’s preference for settlement, it is still incumbent upon the Program to determine whether the Municipality’s proposed amended HEFSP enables the Municipality to satisfy its fair share obligation and is compliant with the FHA and the Mount Laurel doctrine. See N.J.S.A. §52:27D-304.1(f)(2)(b). The Program is mindful of the fact that the Municipality is permitted to use a variety of means and techniques to provide for its fair share of affordable housing as set forth in N.J.S.A. §52:27D-311 and that courts should employ flexibility in assessing a Municipality’s HEFSP for compliance with the FHA and Mount Laurel doctrine. In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 29-33 (2015).

Having reviewed all the written submissions of the parties, the recommendation of the Special Adjudicator, having presided over the settlement conferences and hearing argument, this Program Member is satisfied that the Municipality’s proposed Amended HEFSP provides a realistic opportunity for the construction of its fair share of low and moderate income housing and thus is compliant with the FHA and in accordance with S. Burlington Cnty. NAACP v. Mount Laurel, 92 N.J. 158, 220-22 (1983). This Program Member is also satisfied that the terms of the settlement between the Municipality and interested parties Fair

Share Housing Center, Russo Acquisitions, LLC and SL Acquisitions, LLC, are fair, reasonable and adequately protect the interests of low and moderate-income residents of the Municipality. Matter of Twp. Of Bordentown, 471 N.J. Super. 196, 218 (App. Div. 2022)(see mediation and settlement agreements attached as Exhibits A and B to the Program Decision Recommendation).

The challenge of interested party Danbro Properties must be decided by the Program. In Danbro's challenge, it is alleged that the Municipality's HEFSP fails to comply with the FHA and Mount Laurel doctrine. Danbro also argues that its proposed inclusionary development (that was excluded from the Municipality's HEFSP) situated at Block 9805 on Whippany Road is suitable, available, developable and approvable. The Program having concluded that the Municipality's proposed Amended HEFSP complies with the FHA and Mount Laurel doctrine without having to rely upon or include the Danbro site, the remaining challenge of Danbro is dismissed. See S. Burlington Cnty. NAACP v. Mount Laurel, 92 N.J. 158, 260 (1983) (Once a municipality has taken steps to affirmatively provide for a realistic opportunity for the construction of its fair share of lower income housing, "the Mount Laurel doctrine requires it to do no more."); Livingston Builders, Inc. v. Township of Livingston, 309 N.J. Super. 370, 381 (App. Div. 1998) (it is for the township to decide how to satisfy its affordable housing obligations and once it meets that obligation it is no longer a Mount Laurel issue)." Moreover, the Program

concludes that Danbro's challenge essentially amounts to an argument that its proposed site is better than the sites chosen by the Municipality for inclusion in its HEFSP, which argument is expressly prohibited by the FHA. See N.J.S.A. §52:27D-304.1(f)(2)(b).

Therefore, it is recommended that the settlement terms be approved by the Morris County Mt. Laurel Judge and the remaining challenge of Danbro be dismissed in accordance with the attached Program Decision Recommendation.

Respectfully Submitted by the Program:

By:

/s/ Hon. Stephan C. Hansbury
Hon. Stephan C. Hansbury, J.S.C. (Ret.)

Dated: February 5, 2026

**PLANNING BOARD
TOWNSHIP OF MORRIS**

**RESOLUTION FINDING ORDINANCE NO. 11-26 TO BE CONSISTENT
WITH THE MASTER PLAN PURSUANT TO SECTIONS 26(a) AND 64 OF
THE MUNICIPAL LAND USE LAW**

WHEREAS, on February 18, 2026, at a duly noticed and constituted public meeting, the Township Committee of the Township of Morris (the "Township Committee") introduced, on first reading, proposed Ordinance No. 11-26, which amends the Township Land Use and Zoning Ordinance and adopts new Affordable Housing and Development Fee regulations (the "Proposed Ordinance") which update the Land Development Ordinance of the Township of Morris in compliance with amended state laws and regulations; and

WHEREAS, after introduction, the Township Committee referred the Proposed Ordinance to the Planning Board of the Township of Morris (the "Planning Board") for Master Plan consistency review pursuant to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

WHEREAS, on March 2, 2026, at a duly noticed and constituted public meeting, the Planning Board considered the testimony of the Board Planner and determined that the Proposed Ordinance is consistent with the Township's Master Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Morris, County of Morris, as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The Planning Board hereby finds and determines that the Proposed Ordinance No. 11-26, which is attached hereto as Exhibit A, is consistent with the Township's Master Plan.

Section 3. The Secretary of the Planning Board shall forward a copy of this Resolution to the Township Committee. This Resolution shall serve as the report to the Township Committee in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64.

Section 4. This Resolution shall take effect immediately.

I hereby certify that this is a true copy of a resolution of the Morris Township Planning Board duly adopted at a regular public meeting held on March 2, 2026



Ryan Kurpat, Secretary
Morris Township Planning Board