

Land Use Board Agenda Packet

March 9, 2026

1. Agenda Items March 9, 2026

Documents:

LUB AGENDA 03 09 26.PDF
03. AMENDED HEFSP FOURTH ROUND - WASHINGTON BOROUGH - DRAFT -
REDLINED - NO APPENDICES.PDF
2026-04 DATA CENTERS.PDF
2026-05 AFFORDABLE HOUSING ORDINANCE - DRAFT - 2.12.26.PDF
3.2.26 - ORDINANCE 2026-05 - AFFORDABLE HOUSING ORDINANCE -
CONSISTENCY REVIEW.PDF
4TH ROUND HEFSP 11074138.PDF
LETTER TO BOARD - ADJOURNMENT OF 3.9.26 MEETING.PDF

WASHINGTON BOROUGH, WARREN COUNTY, NEW JERSEY
LAND USE BOARD
March 8 2026
REGULAR MEETING AGENDA
7:00 PM

1. Call to Order
 - Sunshine Statement
 - Flag Salute
 - Roll Call
2. Approval of Minutes
 - A. Regular Meeting – February 8, 2025
3. Resolutions
 - A.
4. Applications
 - A. Joseph Morcos – 162 E Washington Ave, Block 65 Lot 3 – Adjourned to April 13 2026
5. Old Business
 - A. HEFSP review
6. New Business
 - A. Master Plan Consistency Affordable Housing Ordinance
 - B. Review Ordinances 2026-04 & 2026-04
7. Reports of Officers and Committees
8. Unagendized Statements:
9. Open to Board Members and Public
10. Communications
 - A. 4th round HEFSP
 - B. Master Plan Consistency regarding ordinance 2026-05
 - C. Adjournment letter from MYKL
 - D. Ordinance 2026-04 2026-05
11. Adjournment

FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

Washington Borough
Warren County, New Jersey

May 2025

Adopted by the Land Use Board on June 16, 2025

[Amended February 26, 2026 and adopted by the Land Use Board on \[date\]](#)

Prepared By:



Heyer, Gruel & Associates
Community Planning Consultants
236 Broad Street, Red Bank, NJ 07701
(732) 741-2900

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

Susan Gruel, P.P. #1955

Hanah Davenport, P.P. #6561, AICP

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- Appendices Q1 – Q6:** Washington Borough Affordable Housing Resolutions
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 - Appendix Q2:** Washington Borough Council Resolution Appointing Municipal Housing Liaison
 - Appendix Q3:** Washington Borough Council Resolution Adopting Affirmative Marketing Plan + Affirmative Marketing Plan
 - Appendix Q4:** Washington Borough Council Resolution Adopting For-Sale and Rental Operating Manuals + Operating Manuals
 - Appendix Q5:** Washington Borough Highlands Affordable Housing Ordinance Draft
- Appendix R:** [December 30, 2025 Settlement Agreement between Washington Borough and Fair Share Housing Center](#)

EXECUTIVE SUMMARY

This ~~following-amended~~ Fourth Round Housing Element and Fair Share Plan has been prepared for the Borough of Washington in the County of Warren in accordance with:

- The Fair Housing Act as most recently amended (P.L.2024, c.2); and
- The stipulations outlined in the settlement agreement executed between Washington Borough and Fair Share Housing Center (“FSHC”) on or around December 30, 2025 (Appendix R).

Washington Borough is a 2.0 square mile developed community located in northwest New Jersey, within the southern portion of Warren County. The Borough is surrounded entirely by Washington Township and is bisected by State Routes 31 and 57. Washington Borough is located in the Highlands Region, which is an environmentally rich area that provides approximately 70% of the State’s potable drinking water.

The Borough falls within the Highlands Region Planning Area and, as of December 2024, is a fully conforming municipality. It was designated by the State as a Town Center in 1999 and more recently received Highlands Center designation in February 2021. These designations are broadly given to areas where development and redevelopment is encouraged, as a tool to prevent sprawl.

According to the 2020 Census, Washington Borough’s population was 7,299, which represents an increase of 13% from 2010. In 2020, the Borough’s median age was 40.9 years, representing a 6.8% increase from the median age of 38.3 years in 2010. The Borough’s average household size in 2020 was 2.38 persons, which was slightly lower than the average at the County level (2.41 persons).

The housing stock of the Borough is predominantly single-family detached dwelling units. Approximately 63% of the housing stock was built prior to 1970, making over half of the Borough’s housing older than fifty years.

The Borough is located in Housing Region 2, a region that consists of Essex, Morris, Union, and Warren counties. Based on the 2025 Regional Income Limits (released by New Jersey Housing and Mortgage Finance Agency on May 16, 2025), the median income in Region 2 for a four-person household is \$135,300, the moderate-income is \$108,240, the low-income is \$67,650, and the very-low-income level is \$40,590.

Affordable housing obligations in New Jersey are divided into “housing rounds,” as will be discussed in detail later in this Plan. Each municipality in New Jersey has a constitutional obligation to provide their fair share of the calculated regional need for affordable housing within the respective housing round. These obligations to construct new affordable housing are known as the “Prospective Need” obligation. Municipalities also have an obligation to rehabilitate units that are deemed substandard, pursuant to the criteria of the Fair Housing Act. This obligation is known as the Present Need, or Rehabilitation Share. The housing rounds are as follows: Prior Round (1987-1999), Third Round (1999-2025), and Fourth Round (2025-2035).

The Borough of Washington has participated in each of the three housing rounds. In the Third Round, the Borough entered into separate Settlement Agreements with (a) intervening developer Washington Station Venture, LP and Washington Venture Investment, Ltd., and (b) Fair Share Housing Center to establish its Third Round affordable housing obligation. The subsequent compliance efforts were approved by the Court in a Final Judgement of Compliance and Repose, dated November 16, 2021, confirming the Borough satisfied its Third Round obligations (see Appendix A).

The Borough was able to fully meet its Prior Round and Third Round obligations through credit-worthy units that are existing, under construction, or proposed as well as rental bonus credits.

The Borough has a Fourth Round obligation as follows:

Rehabilitation Share: 0 units

Prospective Need: 27 units

The Borough's Prospective Need is separated into a realistic development potential ("RDP") of 5 units and an unmet need of 22 units. The Borough will fully address its Fourth Round obligation through the following mechanisms:

- Existing Credits
- Inclusionary Zoning – Washington Downtown Redevelopment Area

The Borough will address its Fourth Round obligation in full through a combination of existing and proposed credits as described in the Fair Share Plan portion of this Plan.

INTRODUCTION

The need to provide a realistic opportunity for the construction of affordable housing in New Jersey, the country's most densely populated state, has been recognized for decades. In the case of Southern Burlington County NAACP v. the Township of Mount Laurel 67 N.J. 151 (1975) (commonly known as Mount Laurel I), the New Jersey Supreme Court established the doctrine that developing municipalities in New Jersey have a constitutional obligation to create a realistic opportunity for their fair share of low and moderate income housing.

In Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983), decided on January 20, 1983 (commonly known as Mount Laurel II), the Supreme Court acted to address the response of municipalities to Mount Laurel I. The builder's remedy created a mechanism for developers to sue non-compliant municipalities and force them to comply. Mount Laurel II also created the Judgment of Repose to incentivize municipal compliance. A Judgment of Repose protected municipalities from potential lawsuits and those who would claim entitlement to a builder's remedy or other relief based upon the claim that the municipality was noncompliant.

In the wake of Mount Laurel II, developers sued municipalities seeking builder's remedies. The wave of builder's remedy lawsuits created the impetus for legislation to protect municipalities from builder's remedies. A decision by Judge Serpentelli, one of three judges appointed by Chief Justice Wilentz to implement Mount Laurel II, increased the need for a legislative cure. More specifically, in 1984, Judge Serpentelli issued the "AMG decision" (AMG Realty Co. v. Warren Twp.), which established a formula for any developer to determine the fair share obligation of any municipality.

The pressure of builder's remedy suits, combined with the ease in determining the fair share of any municipality through the AMG formula, culminated in the enactment of the New Jersey Fair Housing Act in 1985. The Fair Housing Act (FHA) is found at N.J.S.A. 52:270-301, et seq. The FHA established the Council on Affordable Housing (COAH) as an administrative alternative to builder's remedy lawsuits and the concomitant jurisdiction of the courts. COAH was given the responsibility of dividing the state into housing regions, determining regional and municipal fair share affordable housing obligations, and adopting regulations that would establish the guidelines and approaches that municipalities may use in addressing their affordable housing need.

In 2008, the Legislature amended the FHA to add requirements for very low-income housing. Very low-income households are those in which the gross household income is 30% or less than the region's median household income. Low-income households are those with incomes no greater than 50% of the region's median household income. Moderate-income households are those with incomes no greater than 80% and no less than 50% of the region's median household income. Each is adjusted for household size and is in relation to the median gross income of the housing region in which the municipality is located.

FIRST AND SECOND ROUNDS

The First and Second Rounds under COAH are collectively referred to as the "Prior Round." The Prior Round obligation is the cumulative 1987-1999 fair share obligation. The First Round consists of the six-year period between 1987 and 1993 for which COAH first established a formula for determining municipal affordable housing obligations (N.J.A.C. 5:92-1 *et seq.*). Then in 1994, COAH established amended regulations (N.J.A.C. 5:93-1.1 *et seq.*) and produced additional municipal affordable housing obligations for the years 1993 to 1999. This second round of obligations is known as the Second Round. When COAH adopted regulations for the Second Round, it made the First and Second Round obligations cumulative for both periods.

THIRD ROUND

Housing rounds were originally established by the Fair Housing Act as six-year periods, but in 2001 the Legislature extended the rounds to 10-year periods. This should have meant that the Third Round ran from 1999 to 2009. However, COAH didn't establish new rules for the Third Round until the end of 2004 (N.J.A.C. 5:94-1 and 95-1 *et seq.*). The Third Round time period was therefore extended to 2014. The Third Round rules established a new method for calculating a municipality's affordable housing obligation, known as "growth share." This method required municipalities to project future residential and non-residential development, and then derive their obligation from that growth.

After the New Jersey Appellate Court invalidated several components of the Third Round rules, COAH released revised rules in 2008. The Third Round was once again extended to 2018 to provide municipalities with the time to apply the amended rules and establish mechanisms to meet their obligations. The revised Third Round rules, like the initial Third Round rules, established the obligations based on a growth share approach.

On October 8, 2010, in response to numerous legal challenges to the second iteration of COAH's Third Round regulations, the Appellate Divisions ruled that COAH could not allocate obligations through a "growth share" formula and directed COAH to use similar methods to those used in the First and Second Rounds. COAH proposed Third Round regulations a third time in 2014 using a formula similar to the ones it had used in the First and Second Rounds. However, when COAH met to consider adopting these rules on October 20, 2014, it deadlocked.

On March 10, 2015, the New Jersey Supreme Court decided [In re Adoption of N.J.A.C. 5:96 & 5:97 by the N.J. Council on Affordable Housing](#), 221 N.J. 1 (2015) (Mount Laurel IV), wherein it responded to COAH's failure to adopt defensible rules for the Third Round. This decision changed the landscape by which municipalities are required to comply with their constitutional obligation to provide their fair share of affordable housing. The Supreme Court held that since COAH was no longer functioning, trial courts were to resume their role as the forum of first instance for evaluating municipal compliance with [Mount Laurel](#)

obligations, and also established a transitional process for municipalities to seek temporary immunity and ultimately a Judgment of Compliance and Repose (“JOR”) from a Court, which was the “judicial equivalent” of Substantive Certification from COAH.

On January 18, 2017, the Supreme Court decided In Re Declaratory Judgment Actions Filed by Various Municipalities, County of Ocean, Pursuant To The Supreme Court’s Decision In In re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel V”), which held that need having accrued during the Gap Period (1999-2015) was part of the Present Need rather than the Prospective Need. The Supreme Court held that there is an obligation with respect to households that came into existence during that gap that are eligible for affordable housing, that are presently (as of 2015) in need of affordable housing, and that are not already counted in the traditional present need.

As the methodology and obligations from the Gap and Prospective Need had not been fully adjudicated at that time, various trial judges issued opinions on the appropriate methodology and 354 municipalities reportedly settled with Fair Share Housing Center wherein they negotiated their obligations for the Third Round.

Municipal obligations were therefore broken down in Round Three Housing Element and Fair Share Plans as Present Need/Rehabilitation, Prior Round (1987-1999), and Third Round and Gap Period (1999-2015). Municipalities that received their Final Judgement of Compliance and Repose were guaranteed immunity from builders’ remedy lawsuits through the end of the Third Round, June 30, 2025.

FOURTH ROUND

On March 18, 2024, the affordable housing legislation known jointly as Senate Bill S50 and Assembly Bill A4 passed both houses of the legislature. Governor Murphy signed the bill (P.L.2024, c.2) into law on March 20, 2024, establishing a new methodology for determining municipalities’ affordable housing obligations for the Fourth Round and beyond. The new legislation, which comprehensively amends the FHA, overhauled the process that municipalities undertake to establish and plan for their constitutionally mandated affordable housing obligation. Most notably, this legislation formally abolished COAH while transferring its functions to the New Jersey Department of Community Affairs (DCA) and Housing Mortgage and Finance Agency (HMFA). As a result, the legislation codified the method for calculating regional and municipal affordable housing needs and returned most of the process from the Courts to state administrative departments.

The amended FHA called on the DCA to issue a non-binding report on the new Present Need Obligation (commonly referred to as the rehab obligation) and the Prospective Need for the Fourth Round (2025-2035) and subsequent rounds. The amended FHA requires the DCA to base its analysis of the obligations for each municipality based upon the standards set forth in the amended FHA. Accordingly, on October 18, 2024 the DCA released a report outlining the Fourth Round Fair Share methodology and its calculations of low- and

moderate-income obligations for each of the State’s municipalities. The amended FHA gave municipalities until January 31, 2025 to review the obligation reported by the DCA and perform their own analysis of their obligation based on the methodology in the legislation and previously established by the Courts.

If any municipality wished to commit to an obligation different from the one reported by the DCA, the amended FHA required the municipality to adopt a resolution by January 31, 2025, committing to the number that it contended was the appropriate obligation. If a municipality wished to commit to the numbers that the DCA reported, the amended FHA required the municipality to adopt a resolution committing to the DCA numbers.

The amended FHA required any municipality that wished to participate in the new process that the Act created to file a declaratory relief action within 48 hours of adopting the resolution committing to the numbers the municipality deemed appropriate. Further, the amended FHA gave any interested party who wished to oppose the numbers to which any municipality committed until February 28, 2025 to file an Answer, which included a particularized objection to the numbers to which the municipality committed.

As established in the amended FHA, the “Affordable Housing Dispute Resolution Program” (“the Program”) was given until March 31, 2025 to try to resolve any disputes over the fair share numbers to which a municipality committed. The program is a new entity created by the amended FHA. It is staffed with seven current or retired judges who have the authority to use adjudicators to assist in mediating disputes over the obligations of municipalities.

The amended FHA gives municipalities until June 30, 2025, to file a Housing Element and Fair Share Plan and related documents showing how the municipality will comply with its obligations. The Fourth Round Plans will follow the same general format as plans from previous rounds, with certain updates to their requirements dealing with various types of housing and the bonus credit calculation system. Notably, HEFSPs are required to be consistent with the State Development and Redevelopment Plan (SDRP) (a new draft SDRP was released in late 2024 and has yet to be adopted) and the Highlands Regional Master Plan for conforming municipalities. As part of the HEFSP, municipalities shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing (i.e. First, Second, and Third Rounds).

WASHINGTON BOROUGH’S HISTORY OF AFFORDABLE HOUSING

Washington Borough has a long history of compliance with COAH’s regulations. The Borough received First Round certification on May 20, 1987. Subsequently, the Borough petitioned COAH for Second Round Certification on January 17, 1995 and received substantive certification on June 7, 1995, with an extended certification date of February 9, 2005. The Borough’s Second Round Certification expired on December 20, 2005.

The Borough also participated in the Third Round Certification process. The Borough's Land Use Board adopted a Third Round Housing Element and Fair Share Plan on November 9, 2009. Washington Borough then petitioned COAH on January 6, 2010, and was deemed complete on April 16, 2010. However, the Borough did not receive Third Round Certification as the Third Round Rules were invalidated by the Court.

In response to Mount Laurel IV, the Borough filed a declaratory judgment action ("Action") on July 1, 2015 via Docket No. WRN-L-230-15. In an Order filed on August 25, 2015, the Borough was granted temporary immunity from builder's remedy actions.

On November 6, 2015, property owners Washington Station Venture, LP and Washington Venture Investment, Ltd. (collectively known as "Washington Venture Entities") was granted leave to intervene in the Borough's Action. Fair Share Housing Center ("FSHC") was also a participating party in the Action in accordance with Mount Laurel IV. A settlement agreement with FSHC was executed on December 10, 2018 (see Appendix B). A separate settlement agreement with Washington Ventures Entities was executed on October 9, 2018 and later amended via Rider dated December 18, 2018 (see Appendix C).

The Honorable Thomas C. Miller, P.J.S.C. conducted a Fairness Hearing on December 20, 2018, at which time he ruled that the settlement agreements between (a) the Borough and FSHC and (b) the Borough and Washington Venture Entities were fair and reasonable (see Appendices B and C). An Order was issued by the Honorable Thomas C. Miller on January 23, 2019.

The Settlement Agreement between the Borough and Washington Venture Entities was later amended by two subsequent agreements dated September 9, 2019 and June 16, 2020, respectively. The Borough came before the Court on August 27, 2020 for an Amended Fairness and Compliance Hearing and was granted a conditional JOR on December 1, 2020. After meeting the conditions of the JOR, which included the adoption of a Third Round Housing Element and Fair Share Plan (adopted by the Land Use Board on July 8, 2019), the Borough was issued a Final JOR on November 16, 2021 (see Appendix A). This Final JOR granted the Borough immunity from builder's remedy actions through the end of the Third Round, June 30, 2025.

On January 21, 2025, in accordance with the standards established by the amended FHA and described above, the Borough adopted Resolution #2025-35 (see Appendix D). This resolution maintained the DCA-generated obligation to establish the Borough's Fourth Round housing obligation, and thus guaranteed protection from builders' remedy suits. Further, on January 23, 2025, in accordance with the standards established by the amended FHA and described above, the Borough filed a Complaint (Docket No. WRN-L-000041-25) seeking the entry of a declaratory judgment. A Court-approved order fixing the Borough's obligation numbers was filed on March 25, 2025 (see Appendix E).

This Fourth Round Housing Element and Fair Share Plan outlines mechanisms implemented to address the Borough's affordable housing obligations, and has been prepared in accordance with the Fair Housing Act as most recently amended (P.L.2024, c.2).

PLANNING FOR AFFORDABLE HOUSING

Pursuant to both the FHA (N.J.S.A. 52:27D-310, et seq.) and the Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-28), municipalities in New Jersey are required to include a Housing Element in their Master Plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations. The statutorily required contents of the housing element are:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate-income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance

of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

PART 1: HOUSING ELEMENT

DEMOGRAPHIC CHARACTERISTICS

Population

Table 1 below depicts the population trends that occurred in Washington Borough, Warren County, and the State of New Jersey in the 93-year period between 1930 and 2023. In 2023, there were 7,287 residents in Washington Borough, which indicates a decrease of 12 people (-0.2%) from 2020. Overall, Washington Borough has experienced steady growth over the past 93 years, with minor decreases of less than 5% between 2010 and 2020 and 2020 and 2023. The Borough has seen a growth of 2,877 residents during this time frame, reflecting a 65.2% increase in its population. Proportionally speaking, the Borough’s most significant period of growth occurred in the decade between 1950 and 1960 when Washington saw a 19.2% increase in its population. These trends are reflected at the County and State level, as well, which saw a similarly significant increase in population throughout the 1950s. While population growth has been steady during this time period in Washington Borough, overall growth at the County (125.6% increase) and State (129.3% increase) levels has seen a more exaggerated increase than the Borough.

Year	Washington Borough			Warren County			New Jersey		
	Population	Change		Population	Change		Population	Change	
		Number	Percent		Number	Percent		Number	Percent
1930	4,410	-	-	49,319	-	-	4,041,334	-	-
1940	4,643	233	5.3%	50,181	862	1.7%	4,160,165	118,831	2.9%
1950	4,802	159	3.4%	54,374	4,193	8.4%	4,835,329	675,164	16.2%
1960	5,723	921	19.2%	63,220	8,846	16.3%	6,066,782	1,231,453	25.5%
1970	5,943	220	3.8%	73,960	10,740	17.0%	7,171,112	1,104,330	18.2%
1980	6,429	486	8.2%	84,429	10,469	14.2%	7,365,011	193,899	2.7%
1990	6,474	45	0.7%	91,607	7,178	8.5%	7,730,188	365,177	5.0%
2000	6,712	238	3.7%	102,437	10,830	11.8%	8,414,350	684,162	8.9%
2010	6,461	-251	-3.7%	108,692	6,255	6.1%	8,791,894	377,544	4.5%
2020	7,299	838	13.0%	109,632	940	0.9%	9,288,994	497,100	5.7%
2023	7,287	-12	-0.2%	111,252	1,620	1.5%	9,267,014	-21,980	-0.2%
Total Change	-	2,877	65.2%	-	61,933	125.6%	-	5,225,680	129.3%

Source: 1930-2020 U.S. Decennial Census; 2023 ACS 5-Year Estimates, Table S0101

Population Composition by Age

The median age of the residents in Washington Borough in 2020 was 40.9 years, which shows a 6.8% increase from the 2010 median age of 38.3 years. Analysis of age group characteristics provides insight into the actual changes in population. This comparison is helpful in determining the impacts these changes have on housing needs, community facilities and services for the municipality. As detailed in Table 2 below, the entire composition of Washington Borough experienced notable shifts in the years between 2010 and 2020. The most significant shift occurred in the population groups aged 55 and over, which collectively saw a 782-person (54.8%) increase. Simultaneously, the Borough experienced a decrease in its population under 14 years old (-3.9%) and between the ages 35 to 54 (-4.0%).

Population	2010		2020		Change (2010 to 2020)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	415	6.4%	369	5.1%	-46	-11.1%
5 to 14	828	12.8%	825	11.3%	-3	-0.4%
15 to 24	845	13.1%	894	12.2%	49	5.8%
25 to 34	824	12.8%	964	13.2%	140	17.0%
35 to 44	1,038	16.1%	971	13.3%	-67	-6.5%
45 to 54	1,084	16.8%	1067	14.6%	-17	-1.6%
55 to 64	745	11.5%	1,116	15.3%	371	49.8%
65 and over	682	10.6%	1,093	15.0%	411	60.3%
Total population	6,461	100.00%	7,299	100.00%	838	13.0%
Median Age	38.3	-	40.9	-	2.6	6.8%

Source: 2010 and 2020 U.S. Decennial Census

Warren County experienced population fluctuation as well. The County also saw the greatest shift of roughly 33% in its population aged 55 and over, which was proportionally lower than the increase experienced at the Borough level. The County experienced rather significant decreases in its population aged 14 and below (16.9%) as well as those aged 35 to 54 (19.3%), directly mirroring shifting age trends occurring in the Borough. This data is displayed in Table 3 below.

Population	2010		2020		Change (2010 to 2020)	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	6,084	5.6%	4,951	4.5%	-1,133	-18.6%
5 to 14	14,725	13.5%	12,507	11.4%	-2,218	-15.1%
15 to 24	13,434	12.4%	13,220	12.1%	-214	-1.6%
25 to 34	10,671	9.8%	12,281	11.2%	1,610	15.1%
35 to 44	15,484	14.2%	12,551	11.4%	-2,933	-18.9%
45 to 54	19,174	17.6%	15,413	14.1%	-3,761	-19.6%
55 to 64	13,828	12.7%	18,054	16.5%	4,226	30.6%
65 and over	15,292	14.1%	20,655	18.8%	5,363	35.1%
Total population	108,692	100.0%	109,632	100.0%	940	0.9%
Median Age	41.5	-	44.4	-	2.9	7.0%

Source: U.S. Decennial Census, 2010 and 2020

Households

A household is defined as one or more persons, either related or not, living together in a housing unit. In 2020 there was a total of 3,002 households in Washington Borough. Over half of the Borough’s households comprised two or less people. In fact, two-person households were the most common household size at both the Borough (31.9%) and County (34.3%) levels, followed closely by one-person households. The average household size in Washington Borough in 2020 was 2.38 people, which was slightly lower than the County’s average of 2.41 people.

	Washington Borough		Warren County	
	Number	Percent	Number	Percent
1-person household	916	30.5%	11,741	27.7%
2-person household	957	31.9%	14,511	34.3%
3-person household	479	16.0%	7,024	16.6%
4-person household	371	12.4%	5,829	13.8%
5-person household	156	5.2%	2,583	6.1%
6-person household	77	2.6%	1,060	2.5%
7-or-more-person household	46	1.5%	579	1.4%
Total Households	3,002	100.0%	42,327	100.0%
Average Household Size (2023)	2.38		2.41	

Source: U.S. Decennial Census 2020, H9; 2023 ACS 5-Year Estimates, Table S1101

According to the United States Census, family households are defined as two or more persons living in the same household, related by birth, marriage, or adoption. As shown in Table 5, just over half (56%) of all households in the Borough in 2023 were categorized as family households, with just under one-quarter (23%) of the Borough’s family households considered as married-couple families with children.

In providing more detail on American households, the 2020 Census includes the sub-groups of non-traditional households, including “Other Family” and “Non-Family” households. “Non-Family” households are defined as those that consist of a householder living alone or sharing the home exclusively with people to whom he/she is not related.

“Other Family” households accounted for 18% of all households, broken down into 14% female householders with no spouse or partner present and 3% male householders with no spouse or partner present. Approximately 44% of the Borough’s households were nonfamily households, with female householders living alone (23%) and male householders living alone (21%) collectively accounting for the majority of the nonfamily households.

Table 5: Household Size and Type, 2023 Washington Borough		
	Number	Percent of Total Households
Total Households	3,047	100%
Family Households	1694	56%
Married Couple Family	1151	38%
With Children	705	23%
Without Children	446	15%
Other Family	543	18%
Male Householder, No Spouse	106	3%
With Children	46	2%
Without Children	60	2%
Female Householder, No Spouse	437	14%
With Children	252	8%
Without Children	185	6%
Nonfamily Household	1353	44%
Male Householder	626	21%
Living Alone	543	18%
Not Living Alone	83	3%
With Children	0	0%
Female Householder	727	24%
Living Alone	705	23%
Not Living Alone	22	1%
With Children	0	0%

Source: 2023 ACS 5-Year B110005 and B11010

Income

As measured in 2023, Washington Borough had a notably lower median household income compared to Warren County and the State of New Jersey. The median income in Washington Borough was \$79,280, which was roughly \$21,252 less than that of the County and \$21,770 less than that of the State. The per capita income in Washington Borough was also lower than that of the County and State, reflecting a gap of \$9,301 gap below the County per capita income and \$13,296 below the State per capita income. This data is outlined in Table 6 below.

Table 6: Per Capita and Household Income, 2023 Washington Borough, Warren County, and New Jersey		
	Per Capita Income	Median Household Income
Washington Borough	\$39,722	\$79,280
Warren County	\$49,023	\$100,532
New Jersey	\$53,118	\$101,050

Source: 2023 ACS 5-Year Estimates, Tables S1901 and S1902

In 2023 roughly 68.6% of all households in the Borough earned an income of \$50,000 or more, as compared to roughly 77.3% of households in the County. The income range that accounted for the most Borough households was the \$100,000 to \$149,999 bracket, which comprised nearly one-quarter (23.2%) of households in Washington; this was also the case across Warren County as a whole, at a comparable percentage of 23.4%. The second largest income bracket in the Borough was the \$50,000 to \$74,999 range, which comprised 16.9% of households. At the County level, this same income bracket accounted for a comparable 16.8% of households. Although the Borough's household income distribution in these mid-ranges is consistent with that at the County level, the 2023 data shows that the County has a higher proportion of households earning \$150,000 or more as compared to the Borough. This may at least partially help explain the notable gap between the median income reported at the Borough and County levels.

Table 7: Household Income, 2023				
Washington Borough and Warren County				
	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Less than \$10,000	286	9.4%	2,082	4.6%
\$10,000 to \$14,999	52	1.7%	453	1.0%
\$15,000 to \$24,999	186	6.1%	2,218	4.9%
\$25,000 to \$34,999	98	3.2%	2,263	5.0%
\$35,000 to \$49,999	335	11.0%	3,214	7.1%
\$50,000 to \$74,999	515	16.9%	7,604	16.8%
\$75,000 to \$99,999	445	14.6%	4,617	10.2%
\$100,000 to \$149,999	707	23.2%	10,592	23.4%
\$150,000 to \$199,999	235	7.7%	5,522	12.2%
\$200,000 or more	189	6.2%	6,654	14.7%
Total Households	3,047	100.0%	45,263	100.0%
Median Household Income	\$79,280		\$100,532	

Source: 2023 ACS 5-Year Estimates, Table S1901

Poverty Status

Of the 7,287 people in Washington Borough for which poverty status was determined, 839 (11.5%) individuals lived in poverty in 2023; this was slightly higher than the County’s poverty rate of 9.2%. Of Washington Borough’s population that fell below the poverty level in 2023, over half (54.8%) were between the ages of 18 to 64. This trend was mirrored at the County level as well, where 59.7% of the population living in poverty fell within this same age range. Proportionally the Borough had a greater percentage of children living in poverty (39.0%) than the County as a whole (26.8%), and a lesser percentage of residents aged 65 and over living in poverty (6.2%) as compared to the County (13.5%). This data is presented in Table 8 below.

Table 8: Poverty Status, 2023				
Washington Borough and Warren County				
	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Total persons	7,287	100.0%	109,775	100.0%
Total persons below poverty level	839	11.5%	10,061	9.2%
Under 18	327	4.5%	2,696	2.5%
18 to 64	460	6.3%	6,010	5.5%
65 and over	52	0.7%	1,355	1.2%

Source: 2023 ACS 5-Year Estimates, Table S1701

Household Costs

Tables 9 and 10 below outline the expenditures for housing as a percentage of household income for those who own and rent in Washington Borough and Warren County. In 2023, just over half (56%) of the Borough's households lived in homes they owned, which was lower than that of the County level (76%). General affordability standards set a limit at 30% of gross income to be allocated for owner-occupied housing costs and 28% of gross income to be allocated for renter-occupied housing costs.

Approximately 33.9% of Borough households that owned the units they occupied spent 30% or more of their household income on housing, as compared to 51.7% of Borough households that rented the units they occupied. These figures were greater than the County level, in which a lesser 23.2% of households occupying units they owned and 43.4% of households occupying rental units spent 30% or more of the household income on housing.

**Table 9: Selected Monthly Owner Costs as a Percentage of Household Income, 2023
Washington Borough and Warren County**

	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Total Owner-Occupied Housing Units	1,711	100.0%	34,186	100.0%
Less than 20.0%	669	39.1%	17,503	51.2%
20.0 to 24.9%	277	16.2%	5,018	14.7%
25.0 to 29.9%	185	10.8%	3,704	10.8%
30.0 to 34.9%	234	13.7%	2,112	6.2%
35.0% or more	346	20.2%	5,829	17.1%
Not computed	0	0.0%	20	0.1%

Source: 2023 ACS 5-Year Estimates, Table DP04

**Table 10: Gross Rent as a Percentage of Household Income, 2023
Washington Borough and Warren County**

	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Total Renter-Occupied Housing Units	1,336	100.00%	11,077	100.00%
Less than 10.0%	39	2.9%	464	4.2%
10.0 to 14.9%	89	6.7%	965	8.7%
15.0 to 19.9%	240	18.0%	1,576	14.2%
20.0 to 24.9%	99	7.4%	1,244	11.2%
25.0 to 29.9%	144	10.8%	1,321	11.9%
30.0 to 34.9%	106	7.9%	1,050	9.5%
35.0 to 39.9%	77	5.8%	762	6.9%
40.0 to 49.9%	58	4.3%	809	7.3%
50.0% or more	450	33.7%	2,184	19.7%
Not computed	34	2.5%	702	6.3%

Source: 2023 ACS 5-Year Estimates, Table B25070

EXISTING HOUSING CONDITIONS

Housing Unit Data

The vast majority (80.1%) of Washington Borough’s housing stock consists of structures built prior to the year 2000. In 2023, Washington Borough had a total of 3,047 occupied housing units, roughly 56.2% of which were owner-occupied and 43.8% of which were renter-occupied. The Borough experienced housing booms in the 1950s and early 2000s, during which approximately 13.3% and 13.2% of the Borough’s housing structures were constructed, respectively. As reflected in the 2023 American Community Survey data, a slower rate of residential development has occurred since 2010. The median year of construction for the housing stock in Washington Borough is 1957. This data is outlined in Tables 11 and 12 below.

Table 11: Housing Data, 2023 Washington Borough			
	Number	% of Total Housing Units	% of Occupied Housing Units
Total Housing Units	3,124	100.0%	-
Occupied Housing Units	3,047	97.5%	100.0%
Owner Occupied	1,711	54.8%	56.2%
Renter Occupied	1,336	42.8%	43.8%
Vacant Housing Units	77	2.5%	-

Source: 2023 ACS 5-Year Estimates, Table DP04

Table 12: Year Structure Built, 2023 Washington Borough		
	Number	Percent
Total Housing Units	3,124	100.00%
Built 1939 or earlier	1128	36.1%
Built 1940 to 1949	151	4.8%
Built 1950 to 1959	416	13.3%
Built 1960 to 1969	281	9.0%
Built 1970 to 1979	267	8.5%
Built 1980 to 1989	174	5.6%
Built 1990 to 1999	85	2.7%
Built 2000 to 2009	412	13.2%
Built 2010 to 2019	210	6.7%
Built 2020 or later	0	0.0%
Median Year Structure Built	1957	

Source: 2023 ACS 5-Year Estimates, Tables B25034 and B25035

In 2023, Washington Borough had a high occupancy rate, with very few of its housing units vacant. Of the Borough’s 3,124 housing units, 97.5% were occupied and a mere 2.5% were vacant. Nearly two-thirds (61%) of vacant units could be attributed to “Sold, Not Occupied” categories, with “For Sale Only” accounting for the remainder of vacant units (39%). This data is represented in Table 13 below.

**Table 13: Housing Occupancy, 2023
 Washington Borough**

	Total	% of Total Housing Units	% of Vacant Housing Units
Total Housing Units	3,124	100.0%	-
Occupied	3,047	97.5%	-
Vacant Housing Units	77	2.5%	100.0%
For Rent/Rented Not Occupied	0	0.0%	0.0%
For Sale Only	30	1.0%	39.0%
Sold, Not Occupied	47	1.5%	61.0%
For Seasonal, Recreational or Occasional Use	0	0.0%	0.0%
For Migrant Workers	0	0.0%	0.0%
Other Vacant	0	0.0%	0.0%

Source: 2023 ACS 5-Year Estimates, Tables DP04 and B25004

Housing Type and Size

In 2023, single-family detached housing made up just over half of the Borough’s housing stock at 52.6%. Single-family attached homes were the next most common housing type, representing another 14.5% of the Borough’s housing stock. The median number of rooms within housing structures in the Borough in 2023 was 5.7 rooms, with 69.1% of housing units having a minimum of 5 rooms and only 4.8% of housing units having 2 or less rooms.

Table 14: Housing Type and Size, 2023 Washington Borough		
Units in Structure	Total	Percent
1, detached	1,644	52.6%
1, attached	454	14.5%
2	328	10.5%
3 or 4	72	2.3%
5 to 9	194	6.2%
10 to 19	60	1.9%
20 or more	372	11.9%
Mobile home	0	0.0%
Boat, RV, van, etc.	0	0.0%
Total Housing Units	3,124	100.0%
Rooms	Total	Percent
1 room	22	0.7%
2 rooms	127	4.1%
3 rooms	423	13.5%
4 rooms	394	12.6%
5 rooms	438	14.0%
6 rooms	655	21.0%
7 rooms	323	10.3%
8 rooms	304	9.7%
9 or more rooms	438	14.0%
Total Housing Units	3,124	100.0%
Median number of rooms	5.7	

Source: 2023 ACS 5-Year Estimates, Table DP04

Housing Growth and Projections

In terms of residential growth, the issuance of building permits serves as one of the indicators that help to determine housing needs in a given municipality. Table 15 below illustrates the number of building permits that were issued over the 10-year period between January 2013 through December 2023, when the Borough issued building permits authorizing the development of 93 housing units.

Within this time frame, the busiest years for building permits occurred in 2013, 2014, and 2018, with 95% of all building permits since 2013 having been issued in those years. Over half of the permits issued during this time frame were for multifamily units (51 permits), while the remaining 37 permits were issued for one- and two-family units. There were no permits issued for mixed use units during this time. If this rate were to remain relatively constant over the next 10-year period, the Borough could expect to see an additional 93 residential units authorized through the end of 2035. External factors such as zoning, redevelopment, environmental constraints, and economic cycles could cause this projection to fluctuate. Given the built-

out nature of the Borough, it is likely that the majority of future development will occur through infill and redevelopment.

Further, throughout the same 10-year period, Washington Borough issued permits authorizing the demolition of 10 units. The average demolition rate is approximately 10.7% of the abovementioned development rate (i.e., a home net increase of around 89.3%). If the demolition rate were to remain relatively constant over the next approximately 10-year period, an additional 10 residential units could be expected to be demolished through the end of 2035, resulting in a projected net increase of 83 units.

Table 15: Housing Units Authorized by Building Permits, 2013-2023				
Washington Borough				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2013	23	0	0	23
2014	14	0	0	14
2015	0	0	0	0
2016	1	0	0	1
2017	0	0	0	0
2018	0	51	0	51
2019	1	0	0	1
2020	0	0	0	0
2021	0	0	0	0
2022	1	0	0	1
2023	2	0	0	2
Total 2013-2023	42	51	0	93
10-Year Average				9.3
10-Year Permit Projection (2025-2035)				93

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

Table 16: Housing Units Demolished by Building Permits, 2013-2023				
Washington Borough				
Year	1 & 2 Family	Multi Family	Mixed-Use	Total
2013	1	0	0	1
2014	0	0	0	0
2015	0	0	0	0
2016	0	0	0	0
2017	1	0	0	1
2018	0	0	0	0
2019	0	0	0	0
2020	1	0	0	1
2021	0	0	0	0
2022	4	0	0	4
2023	3	0	0	3
Total 2013-2023	10	0	0	10
10-Year Average				1
10-Year Demolition Projection (2025-2035)				10

Source: State of New Jersey Department of Community Affairs Building Permits: Yearly Summary Data

Housing Values and Contract Rents

According to the American Community Survey, approximately half (61.1%) of the owner-occupied housing stock in Washington Borough in 2023 was valued between \$150,000 to \$299,999, as compared to 29.5% of the County’s housing stock. In addition, only 29.6% of the Borough’s housing stock was valued over \$300,000, whereas 61.6% of the County’s housing stock exceeded \$300,000 in value. The Borough had a significantly lower median home value (\$260,200) than the County (\$350,500) in 2023. This suggests that the Borough’s housing stock is more affordable than the County on a whole. This data is outlined in Table 17 below.

Table 17: Value for Owner-Occupied Housing Units, 2023 Washington Borough and Warren County				
	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Total	1,711	100.0%	34,186	100.0%
Less than \$50,000	38	2.2%	1,511	4.4%
\$50,000 to \$99,999	44	2.6%	240	0.7%
\$100,000 to \$149,999	77	4.5%	1,028	3.0%
\$150,000 to \$199,999	330	19.3%	1,731	5.1%
\$200,000 to \$299,999	716	41.8%	8,347	24.4%
\$300,000 to \$499,999	473	27.6%	14,651	42.9%
\$500,000 to \$999,999	33	1.9%	6,403	18.7%
\$1,00,000 and greater	0	0.0%	275	0.8%
Median Value	\$260,200		\$350,500	

Source: 2023 ACS 5-Year Estimates, Tables B25075 and B25077

As shown on Table 18 below, it is estimated that 74.1% of owner-occupied units in the Borough were financed by a mortgage, contract to purchase, or similar debt in 2023. Of these units, approximately 3.4% were associated with multiple mortgages, another 2% were tied to a home equity loan without a primary mortgage, and the remaining 68.6% were associated with just a primary mortgage. Proportionally there were slightly less owner-occupied housing units with a mortgage at the County level; more specifically, 65.3% of such units had a primary mortgage, while 34.7% of units did not. Of those units in the County tied to a housing-related debt, 84.6% did not have any additional lines of credit associated with the unit, while 8.0% were associated with a home equity loan, 3.6% were associated with a second mortgage, and 3.8% were associated with a home equity loan without a primary mortgage.

Table 18: Mortgage Status, 2023
Washington Borough and Warren County

	Washington Borough			Warren County		
	Number	% of Total Units	% of Mortgage Units	Number	% of Total Units	% of Mortgage Units
Total Owner-Occupied Units	1,711	100.0%	-	34,186	100.0%	-
Owner-Occupied Housing Units with a Mortgage, Contract to Purchase, or similar Debt	1,267	74.1%	100.0%	22,323	65.3%	100.0%
Housing Units with No Second Mortgage and No Home Equity Loan	1,173	68.6%	92.6%	18,880	55.2%	84.6%
Housing Units with Multiple Mortgages	59	3.4%	4.7%	2,595	7.6%	11.6%
Mortgage with Both Second mortgage and Home Equity Loan	0	0.0%	0.0%	0	0.0%	0.0%
Mortgage with Only Home Equity Loan	59	3.4%	4.7%	1,786	5.2%	8.0%
Mortgage with Only Second Mortgage	0	0.0%	0.0%	809	2.4%	3.6%
Home Equity Loan without a Primary Mortgage	35	2.0%	2.8%	848	2.5%	3.8%
Owner-Occupied Housing units without a Mortgage	444	25.9%	-	11,863	34.7%	-

Source: 2023 ACS 5-Year Estimates, Table B25081

As shown in Table 19 below, the median contract rent in Washington Borough in 2023 was \$1,185, which was roughly \$137 lower than the County median rent of \$1,322. Within the Borough the highest percentage of renters paid between \$1,000 to \$1,499 for monthly rent (58.8%), followed by \$1,500 to \$1,999 (20.1%), and less than \$1,000 (15.3%). Overall, nearly three-quarters (74.0%) of renters in the Borough paid less than \$1,500 for monthly rent in 2023. At the County level just less than half (42.3%) of renters paid between \$1,000 to \$1,499 for monthly rent, followed by 18.7% of renters paying between \$1,500 to \$1,999, and another 26.8% of renters paying less than \$1,000 for monthly rent. This data suggests that rent in the Borough is on par with—if not slightly more affordable than—rent in the County as a whole.

Table 19: Contract Rent, 2023
Washington Borough and Warren County

	Washington Borough		Warren County	
	Number	Percent	Number	Percent
Total Renter-Occupied Units	1,336	100.0%	11,557	100.0%
Less than \$500	110	8.2%	1004	8.7%
\$500 to \$999	94	7.0%	2094	18.1%
\$1,000 to \$1,499	785	58.8%	4,892	42.3%
\$1,500 to \$1,999	269	20.1%	2,162	18.7%
\$2,000 to \$2,499	44	3.3%	727	6.3%
\$2,500 to \$2,999	0	0.0%	116	1.0%
\$3,000 or More	0	0.0%	0	0.0%
No Rent Paid	34	2.5%	562	4.9%
Median Contract Rent	\$1,185		\$1,322	

Source: 2023 ACS 5-Year Estimates, Tables B25056 and B25058

Housing Conditions

Table 20 below details the conditions of the Borough’s housing stock in 2023. Overcrowding, plumbing, and kitchen facilities are used to determine housing deficiency. In 2023, nearly two-thirds (63.9%) of the Borough’s housing stock relied on utility gas for heating, followed by electricity (22.7%), and fuel, oil, and kerosene (9.1%). None of the occupied housing units in the Borough experienced overcrowding (more than one person per room). Further, a small number of occupied housing units lacked complete plumbing (1.9%), complete kitchen facilities (0.4%), or telephone service (1.2%).

Table 20: Housing Conditions, 2023 Washington Borough		
	Number	Percent
House Heating Fuel-Occupied Housing Units		
Total	3,047	100.0%
Utility Gas	1,948	63.9%
Bottled, Tank, or LP Gas	37	1.2%
Electricity	691	22.7%
Fuel Oil, Kerosene, etc.	278	9.1%
Coal or Coke	0	0.0%
Wood	0	0.0%
Solar Energy	0	0.0%
Other Fuel	80	2.6%
No Fuel Used	13	0.4%
Occupants per Room – Occupied Housing Units		
Total	3,047	100.0%
1.00 or Less	3,047	100.0%
1.01 to 1.50	0	0.0%
1.51 or More	0	0.0%
Facilities – Total Units		
Total	3,124	100.0%
Lacking Complete Plumbing Facilities	60	1.9%
Lacking Complete Kitchen Facilities	13	0.4%
Telephone Service – Occupied Housing Units		
Total	3,047	100.0%
No Service	37	1.2%

Source: 2023 ACS 5-Year Estimates, Tables DP04, B25047, and B25051

EMPLOYMENT DATA

Tables 21, 22, and 23 below detail the changes in employment between the years 2010 and 2023 in Washington Borough, Warren County, and New Jersey, respectively. Throughout this thirteen-year period, the Borough saw an overall 6.2% decrease in its unemployment rate. Although the Borough experienced a 6.1% spike in unemployment between 2019 and 2020 due to the COVID-19 pandemic, it has rebounded to a considerably lower unemployment rate in recent years. This overall trend is mirrored at both the County and State level as well. In 2023, the Borough’s unemployment rate was 4.5%, which was 0.5% higher than the County (4.0%) and 0.1% higher than the State (4.4%).

**Table 21: Employment and Residential Labor Force, 2010 to 2023
Washington Borough**

Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	3,703	3,308	395	10.7%
2011	3,688	3,373	315	8.5%
2012	3,502	3,155	347	9.9%
2013	3,423	3,155	268	7.8%
2014	3,419	3,183	236	6.9%
2015	3,435	3,225	210	6.1%
2016	3,425	3,245	180	5.3%
2017	3,511	3,331	180	5.1%
2018	3,469	3,309	160	4.6%
2019	3,545	3,401	144	4.1%
2020	3,552	3,190	362	10.2%
2021	3,539	3,304	235	6.6%
2022	3,585	3,435	150	4.2%
2023	3,641	3,476	165	4.5%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, Municipal Historical Annual Data, 2010-2023

**Table 22: Employment and Residential Labor Force, 2010 to 2023
Warren County**

Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	58,695	52,833	5,862	10.0%
2011	58,746	53,411	5,335	9.1%
2012	58,588	53,441	5,147	8.8%
2013	57,636	53,144	4,492	7.8%
2014	56,922	53,337	3,585	6.3%
2015	56,748	53,749	2,999	5.3%
2016	56,584	54,012	2,572	4.5%
2017	57,634	55,277	2,357	4.1%
2018	57,109	54,975	2,134	3.7%
2019	58,154	56,256	1,898	3.3%
2020	57,587	52,883	4,704	8.2%
2021	58,190	54,760	3,430	5.9%
2022	59,058	56,933	2,125	3.6%
2023	60,052	57,624	2,428	4.0%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, County Historical Annual Data, 2010-2023

**Table 23: Employment and Residential Labor Force, 2010 to 2023
New Jersey**

Year	Labor Force	Employment	Unemployment	Unemployment Rate
2010	4,559,778	4,118,982	440,796	9.7%
2011	4,561,786	4,134,708	427,078	9.4%
2012	4,576,286	4,147,221	429,065	9.4%
2013	4,528,019	4,147,661	380,358	8.4%
2014	4,493,894	4,191,318	302,576	6.7%
2015	4,494,606	4,237,876	256,730	5.7%
2016	4,492,821	4,271,201	221,620	4.9%
2017	4,614,953	4,406,151	208,802	4.5%
2018	4,604,787	4,420,713	184,074	4.0%
2019	4,687,390	4,525,044	162,346	3.5%
2020	4,638,386	4,200,980	437,406	9.4%
2021	4,648,814	4,337,793	311,021	6.7%
2022	4,736,213	4,552,563	183,650	3.9%
2023	4,829,671	4,615,722	213,949	4.4%

Source: NJ Dept. of Labor & Workforce Development Labor Force Estimates, State Historical Annual Data, 2010-2023

Employment Status

It is estimated that over two-thirds (69.0%) of Washington Borough’s population over the age of 16 was in the labor force in 2023, which was on par with the County’s rate of 69.9%. Of the Borough’s labor force, 100% of workers were civilians and a vast majority (95.5%) were employed. At the County level, 100% of workers were civilians and 96.1% of the labor force was employed, indicating that the Borough and County exhibited similar trends. This data is shown in Table 24 below.

**Table 24: Employment, 2023
Washington Borough and Warren County**

	Washington Borough			Warren County		
	Number	% of 16+ Population	% of Labor Force	Number	% of 16+ Population	% of Labor Force
Population 16 years and over	5,772	100.0%	-	92,794	100.0%	-
In labor force	3,981	69.0%	100.0%	64,875	69.9%	100.0%
Civilian Labor Force	3,981	69.0%	100.0%	64,875	69.9%	100.0%
Employed	3,802	65.9%	95.5%	62,355	67.2%	96.1%
Unemployed	179	3.1%	4.5%	2,520	2.7%	3.9%
Armed Forces	0	0.0%	0.0%	0	0.0%	0.0%
Not in labor force	1,791	31.0%	-	27,919	30.1%	-

Source: 2023 ACS 5-Year Estimates, Table DP03

Class of Worker and Occupation

According to the American Community Survey Estimates, the majority of workers (73.9%) living in Washington Borough in 2023 were a part of the private wage and salary worker group. This group includes people who work for wages, salary, commission, and tips for a private for-profit employer. The next largest category was private not-for-profit wage and salary workers (10.8%) and local government workers (7.9%). This data is outlined in Table 25 below.

Table 25: Class of Worker, 2023 Washington Borough		
	Number	Percent
Employed Civilian Population 16 Years and Over	3,802	100.0%
Private Wage and Salary Worker	2,809	73.9%
Private Not-For-Profit Wage and Salary Workers	411	10.8%
Local Government Worker	302	7.9%
State Government Worker	145	3.8%
Federal Government Worker	61	1.6%
Self-Employed Worker or Unpaid Family Worker	74	1.9%

Source: 2023 ACS 5-Year Estimates, Table S2408

The occupational breakdown shown in Table 26 below includes only private wage and salary workers. Over half of the Borough’s residents who worked within the private wage field were concentrated in the Management, Business, Science and Arts Occupations (33.9%) and Sales and Office Occupations (24.7%). Collectively, the two fields accounted for 58.6% of the entire resident workforce over the age of 16. Production Transportation and Material Moving Occupations (17.9%) and Service Occupations (15.7%) collectively accounted for another one-third (33.6%) of this population.

Table 26: Resident Employment by Occupation, 2023 Washington Borough		
	Number	Percent
Employed Civilian Population 16 Years and Over	3,802	100.0%
Management, Business, Science and Arts Occupations	1,287	33.9%
Service Occupations	597	15.7%
Sales and Office Occupations	939	24.7%
Natural Resources, Construction and Maintenance Occupations	299	7.9%
Production Transportation and Material Moving Occupations	680	17.9%

Source: 2023 ACS 5-Year Estimates, Table DP03

As portrayed in Table 27, the industry that employed the greatest number of Washington Borough residents in 2023 was the Educational Services, and Health Care and Social Assistance sector, which accounted for 23.6% of the Borough’s resident workforce. The second most common industry during this time was the Retail Trade sector, which accounted for 18.9% of jobs occupied by Borough residents.

**Table 27: Employment by Industry, 2023
 Washington Borough**

Industry	Number	Percent
Employed Civilian Population 16 Years and Over	3,802	100.00%
Agriculture, Forestry, Fishing and Hunting, Mining	17	0.4%
Construction	160	4.2%
Manufacturing	371	9.8%
Wholesale Trade	155	4.1%
Retail Trade	718	18.9%
Transportation and Warehousing, and Utilities	193	5.1%
Information	53	1.4%
Finance and Insurance, and Real Estate and Rental and Leasing	197	5.2%
Professional, Scientific, and Management, and Administrative and Waste Management Services	278	7.3%
Educational Services, and Health Care and Social Assistance	898	23.6%
Arts, Entertainment, and Recreation, and Accommodation and Food Services	347	9.1%
Other Services, Except Public Administration	218	5.7%
Public Administration	197	5.2%

Source: 2023 ACS 5-Year Estimates, Table DP03

Commuting to Work

In 2023, it is estimated that just over half (54.3%) of the employed population that did not work from home commuted up to 34 minutes to their place of work. Approximately 84% of the Borough’s workers commuted up to an hour, with the remaining 16% of workers travelling between an hour to an hour and a half to get to work. Just over three-quarters (77.5%) of the Borough’s working population drove alone as their primary means of travel to work. Less than 10% (9.4%) of workers carpooled, utilized public transportation, walked, or utilized a taxicab, motorcycle, bike, or other means of transportation to commute to work, while the remaining 13.1% of the population worked from home. This data is outlined in Tables 28 and 29 below.

Table 28: Travel Time to Work, 2023 Washington Borough		
	Number	Percent
Workers who did not work at home	3,152	100.0%
Less than 5 minutes	192	6.1%
5 to 9 minutes	350	11.1%
10 to 14 minutes	94	3.0%
15 to 19 minutes	341	10.8%
20 to 24 minutes	204	6.5%
25 to 29 minutes	205	6.5%
30 to 34 minutes	326	10.3%
35 to 39 minutes	118	3.7%
40 to 44 minutes	197	6.3%
45 to 59 minutes	623	19.8%
60 to 89 minutes	232	7.4%
90 or more minutes	270	8.6%
Mean Travel Time to Work (minutes)	36.5	

Source: 2013 ACS 5-Year Estimates, Tables DP03 and B08303

Table 29: Means of Travel to Work, 2023 Washington Borough		
	Number	Percent
Workers 16 years and over	3,626	100.0%
Car, Truck, Van - Drove Alone	2,811	77.5%
Car, Truck, Van - Carpooled	172	4.7%
Public Transportation	84	2.3%
Walked	69	1.9%
Taxicab, Motorcycle, Bike, or Other	16	0.4%
Worked at Home	474	13.1%

Source: 2023 ACS 5-Year Estimates, Table DP03

Covered Employment

There is currently very limited information available on actual job opportunities within municipalities. The Department of Labor and Workforce Development collects information on covered employment, which is employment and wage data for private employees covered by unemployment insurance. The following table provides a snapshot of private employers located within Washington Borough. The first table reflects the number of jobs covered by private employment insurance from 2013 through 2023.

According to data from the New Jersey Department of Labor and Workforce Development, the highest number of covered jobs in Washington Borough between 2013 and 2023 was in 2016 when 2,024 jobs were covered by unemployment insurance. Private employment has remained relatively steady in the Borough since 2013, with its largest loss occurring between 2019 and 2020 (-9.7%), and largest gain occurring between 2020 and 2021 (+6.5%). Washington Borough experienced a gain of 73 jobs between 2022 and 2023, representing an increase of 3.9%.

Year	Number of Jobs	Number Change	Percentage Change
2013	1,897	-	-
2014	1,907	10	0.5%
2015	1,949	42	2.2%
2016	2,024	75	3.8%
2017	1,934	-90	-4.4%
2018	1,937	3	0.2%
2019	1,974	37	1.9%
2020	1,829	-145	-7.3%
2021	1,947	118	6.5%
2022	1,861	-86	-4.4%
2023	1,934	73	3.9%

Source: NJ Dept. of Labor & Workforce Development, Labor Force Estimates

In-Borough Establishments and Employees by Industry: 2023

Table 31 below depicts the average annual number of establishments and employees by industry sector that exist within the Borough, as reported in the Quarterly Census of Employment and Wages (“QCEW”) published by the New Jersey Department of Labor and Workforce Development (“NJDLWD”). The QCEW provides a quarterly accounting of employment, establishments, and wages throughout the State of New Jersey, and accounts for over 95% of available jobs in the state. The annual municipal reports group data according to the North American Industry Classification System (“NAICS”). The QCEW considers an establishment to be a single economic unit, which is located at one physical location and engaged in one type of economic activity. The NJDLWD specifies that establishments differ from firms or companies in the sense that the latter can have multiple establishments.

In 2023, the Borough had an annual average of 265 establishments employing an average of 1,934 persons in the private sector. In the public sector, the local government sector had an average of 3 units employing an average of 239 people. The healthcare and social services (“Health/Social”) sector was the Borough’s predominant private sector, accounting for approximately 23.4% of the average private establishments in Washington Borough and 18.9% of the Borough’s average private in-place employment.

Industry ID and Description		2023 Average	
		Units	Employment
11	Agriculture	-	-
22	Utilities	-	-
23	Construction	-	-
31	Manufacturing	11	281
42	Wholesale Trade	-	-
44	Retail Trade	32	302
48	Transp/Warehousing	-	-
51	Information	-	-
52	Finance/Insurance	6	18
53	Real Estate	-	-
54	Professional/Technical	24	91
55	Management	3	73
56	Admin/Waste Remediation	12	47
61	Education	-	-
62	Health/Social	62	365
71	Arts/Entertainment	-	-
72	Accommodations/Food	24	257
81	Other Services	33	139
99	Unclassifieds	12	20
Private Sector Totals		265	1,934
Local Government Totals		3	239

Source: NJ Dept. of Labor & Workforce Development Labor Force, Quarterly Census of Employment and Wages (QCEW), Municipal Report by Sector (NAICS Based), 2022
Data have been suppressed (-) for industries with few units or where one employer is a significant percentage of employment or wages of the industry.

Probable Future Employment Opportunities

The North Jersey Transportation Planning Authority (NJTPA) completes regional forecasts for the New York/New Jersey metropolitan area every four years for population, households, and employment. The most recent report was released in 2021, documenting projections between 2015 and 2050. The 2021 report predicts that the Borough’s population, households, and employment will see steady annualized growths through 2050. It is estimated that the population will see an overall 1.8% increase, while households will increase by 3.3% and employment will increase by 2.5%.

Category	2015	2050 (Projected)	Annualized Percent Change	Overall Projected Change	
				Number	Percent
Population	6,355	6,472	0.10%	117	1.8%
Households	2,623	2,710	0.10%	87	3.3%
Employment	1,258	1,290	0.10%	32	2.5%

Source: NJTPA Municipal Forecasts, dated 9/13/2021

PART 2: FAIR SHARE PLAN

INTRODUCTION

The following Fair Share Plan (“Plan”) details the Borough’s Prior Round (1987-1999), Third Round (1999-2025), and Fourth Round (2025-2035) Prospective Need obligations. It should be noted that the Borough has no Present Need obligation for the Fourth Round.

This Plan proposes mechanisms by which the Borough can realistically provide opportunities for affordable housing for those moderate-, low-, and very low- income households.

CURRENT STANDARDS

The below section outlines the current key standards applicable to the Borough’s Fourth Round obligation, including the various categories of credits.

Age-Restricted Housing

A municipality may not satisfy more than 30% of the affordable units, exclusive of bonus credits, to address its prospective affordable housing need through the creation of age-restricted housing.

Transitional Housing

Transitional housing units, which will be affordable for persons of low- and moderate-income, were not previously categorized by the Fair Housing Act as a standalone housing type. The amended legislation includes such transitional housing units as a new category which may be included in the HEFSP and credited towards the fulfillment of a municipality’s fair share obligations. This is limited to a maximum of 10% of the municipality’s obligations.

Veterans Housing

Up to 50% of the affordable units in any particular project may be prioritized for low- and moderate-income veterans.

Families with Children

A minimum of 50% of a municipality’s actual affordable housing units, exclusive of bonus credits, must be made available to families with children.

Rental Units

A minimum of 25% of a municipality’s actual affordable housing units, exclusive of bonus credits, shall be satisfied through rental units. At least half of that number shall be available to families with children.

Very-Low Income Requirement

At least 13% of the housing units made available for occupancy by low-income and moderate-income households shall be reserved for low-income households earning 30% or less of the median income

pursuant to the Fair Share Housing Act, N.J.S.A. 52:27D-301, et seq. Half of the very low-income units will be made available to families with children.

Low/Moderate Income Split

At least 50% of the units addressing the Borough's obligation shall be affordable to very-low income and low-income households, and the remaining may be affordable to moderate-income households.

Affordability Controls

Newly created rental units shall remain affordable to low-and moderate-income households for a period of not less than 40 years, 30 years for for-sale units, and 30 years for housing units for which affordability controls are extended for a new term of affordability, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended terms, in combination, total at least 60 years.

Affirmative Marketing

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law, to include the community and regional organizations identified in the agreement as well as the posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

Uniform Housing Affordability Controls (UHAC)

All affordable units created through the provisions of this Plan shall be developed in conformance with the Uniform Housing Affordability Controls (UHAC) pursuant to N.J.A.C. 5:80-26.1 et seq. as amended.

Unit Adaptability

All new construction units shall be adaptable in conformance with P.L.2005, c.250/N.J.S.A. 52:27D-311a and -311b and all other applicable laws.

Bonus Credits

Bonus credits shall not exceed 25% of a municipality’s prospective need obligation, nor shall a municipality receive more than one type of bonus credit for any one unit. Bonus credits may be granted based on the following schedule:

Unit Type	Unit Credit	Bonus Credit
Each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24).	1	1
Each low- or moderate-income ownership unit created in partnership sponsorship with a non-profit housing developer.	1	0.5
Each unit of low- or moderate-income housing located within a one-half mile radius, or one-mile radius for projects located in a Garden State Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations. ¹	1	0.5
A unit of age-restricted housing, provided that a bonus credit for age-restricted housing shall not be applied to more than 10 percent of the units of age-restricted housing constructed in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency in a municipality that count towards the municipality’s affordable housing obligation for any single 10-year round of affordable housing obligations.	1	0.5
A unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space.	1	0.5
Each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, and the municipality contributes funding towards the costs necessary for this preservation.	1	0.5
Each unit of low- or moderate-income housing in a 100 percent affordable housing project for which the municipality contributes toward the costs of the project. ²	1	1
Each unit of very low-income housing for families above the 13 percent of units required to be reserved for very low-income housing pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1).	1	0.5
Each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from a market rate unit to an affordable housing unit. ³	1	1

¹ The distance from the bus, rail, or ferry station to a housing unit shall be measured from the closest point on the outer perimeter of the station, including any associated park-and-ride lot, to the closest point of the housing project property.

² This contribution may consist of: (a) real property donations that enable siting and construction of the project or (b) contributions from the municipal affordable housing trust fund in support of the project, if the contribution consists of no less than three percent of the project cost.

³ A municipality may only rely on this bonus credit as part of its fair share plan and housing element if the municipality demonstrates that a commitment to follow through with this market to affordable agreement has been made and: (a) this agreement has been signed by the property owner; or (b) the municipality has obtained ownership of the property.

WASHINGTON BOROUGH AFFORDABLE HOUSING OBLIGATIONS

The Borough’s affordable housing obligations are as follows:

Prior Round Prospective Need	0
Third Round Prospective Need	42
Fourth Round Prospective Need	27
Fourth Round Present Need / Rehabilitation Obligation	0

REVIEW OF PREVIOUS ROUND COMPLIANCE

As part of any Housing Element and Fair Share Plan, a municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the previous rounds of affordable housing obligations as established by prior court approval or approval by COAH and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its previous round obligations. If a previous round obligation remains unfulfilled, or a municipality never received an approval from the court or COAH for any previous round, the municipality shall address such unfulfilled previous round obligation in its Housing Element and Fair Share Plan.

In addressing previous round obligations, the municipality shall retain any sites that, in furtherance of the previous round obligation, are the subject of a contractual agreement with a developer, or for which the developer has filed a complete application seeking subdivision or site plan approval prior to the date by which the Housing Element and Fair Share Plan are required to be submitted, and shall demonstrate how any sites that were not built in the previous rounds continue to present a realistic opportunity.

Prior Round Compliance (1987-1999)

The Borough had a Prior Round obligation of 0 units.

Third Round Compliance (1999-2025)

The Borough had a Third Round obligation of 42 units. Per the Court-approved Third Round Settlement Agreement and the Borough’s Third Round JOR, Washington has met their Third Round obligation through the following mechanisms:

Summary of Washington Borough's Third Round of 42	
Existing Group Home <i>Gardners Court (Block 11, Lot 2)</i>	14
Existing 100% Affordable Family Rentals <i>Westgate Apartments (Block 6, Lots 11.01 & 11.02)</i>	68
Existing Family For-Sale <i>HFH Marble Street (Block 100, Lot 41)</i>	1
<i>HFH E. Washington Avenue (Block 69, Lots 12-14 & 16)</i>	1
<i>HFH Prosper Way (Block 68, Lot 2)</i>	1
Proposed Inclusionary Family Rentals <i>Towne Center Project (Block 95, Lots 3 & 4)</i>	10
Inclusionary Zoning <i>Downtown Redevelopment Plan</i>	25
Total Units	120
Rental Bonus Credits <i>Gardners Court (Block 11, Lot 2)</i>	11
Total Rental Bonus Credits	11
TOTAL THIRD ROUND	
(42 UNIT OBLIGATION + 89 UNIT EXCESS)	
	131

Towne Center Project (Block 95, Lots 3 & 4)

The Towne Center Project is a proposed development located within the Washington Avenue Core District of the Borough’s Downtown Redevelopment Area. The project is proposed to include a 4-story mixed-used building with approximately 4,000 square feet of retail space and 2,750 square feet of restaurant space on the ground floor, plus 50 residential units on the upper floors (including 10 affordable units).

The project received site plan approvals from the Borough Land Use Board (then, the Planning Board) on December 9, 2013. The Borough designated Jade Partners Urban Renewal, LLC as the redeveloper and executed an initial redevelopment agreement on September 16, 2014, which was subsequently amended in August 2016 and April 2021 (see Appendix F). Although demolition on the site has occurred, construction on the site has been delayed due to a change in ownership, and the need for the new owner to arrange for sufficient financing associated with the project, and the need for updated plans to reflect the Borough's current building code requirements per discussion with the Borough Construction Department.

As of December 2025, the developer had modified the proposed architectural plans and construction drawings to comply with the current code and it was anticipated that the new plans would be submitted for review by the Land Use Board in the near future. It is anticipated that this project will be completed between June and December 2027.

As noted in the Third Round Housing Element and Fair Share Plan, the property meets the criteria to be considered “available, suitable, developable, and approvable.” The analysis as outlined below remains accurate at the time of the writing of this Plan:

- *Available:* This site falls within the Washington Avenue Core District of the Washington Downtown Redevelopment Area, which permits three- to four-story mixed-use buildings. The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by compatible land uses including mixed-use developments and has access to appropriate rights-of-way. The approved site plan provides ingress only from Washington Avenue, egress only to Lincoln Boulevard, and ingress and egress to Broad Street. The property is within a designated Highlands Center, where development is encouraged.
- *Developable:* In accordance with the 2012 New Jersey Department of Environmental Protection’s Land Use Land Cover (LULC), there are no wetlands or surface water resources on the subject property or within 50 feet of the subject property. Further, the site is not located within a FEMA 100-year flood plain. The area on the site proposed for the buildings are not within the 300-foot buffer. The site is served by both public sewer and public water.
- *Approvable:* The site received Planning Board approval on December 9, 2013 and was memorialized in a resolution dated January 13, 2014 (see Appendix G). An initial redevelopment agreement plus two amended redevelopment agreements have been executed with the redeveloper, Jade Partners Urban Renewal, LLC, agreeing to the provision of 10 affordable units in alignment with UHAC regulations.

Additionally, the Highlands Council requires that all conforming municipalities include a narrative analysis discussing any site specific consistency issues and the viability for any development related to affordable housing that is proposed. The Highlands Council released a Highlands Affordable Housing Implementation Guideline document in October 2024, which outlines core planning principles for affordable housing in the Highlands Region as well as siting guidance. The site in question aligns with the following principles and guidelines:

- “The majority of new development in the Highlands Region will likely consist of redevelopment of existing developed lands. Reuse/redevelopment of previously disturbed sites should be prioritized.” This particular project consists of the redevelopment of a previously disturbed lot.

- “The extent and capacity of existing infrastructure should be considered in site selection, zoning ordinance amendments, and total number of projected new units.” This site falls within a designated Highlands Center, where sewer and public water are available.
- “[...] Municipalities that invite nonresidential development should seek to balance that development with residential development with an affordable housing component so that low- and moderate-income households have easier access to the jobs created.” The Towne Center project is a mixed-use development with commercial activity on the ground floor and residential uses on the upper floors.
- Policy 604 of the RMP is “to encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.” The Towne Center project is located within the Washington Downtown Redevelopment Area, in which a majority of the Borough’s economic activity is based. The site is located in proximity to communal infrastructure including schools, places of employment, public library, parks and recreation, etc.
- Lastly, no extension of sewer or water is required for the site, and it is not in proximity to industrial or other uses with potential for health and safety impacts.



1 West Washington Avenue (Block 95, Lot 7)

Commented [HD1]: Moved down to fourth round section

The property received Land Use Board approvals on October 17, 2022 for the renovation of an existing three-story building and the conversion of vacant office units into residential units (see Appendix K). A total of 20 units were approved, 4 of which were required to be affordable. Renovation work on this project began in 2023 but has since been on hold while the redeveloper and Borough finalize the redevelopment agreement. The property meets the criteria to be considered “available, suitable, developable, and approvable,” as outlined below:

- *Available:* This site falls within the Washington Avenue Core District of the Washington Downtown Redevelopment Area, which permits residential uses on upper stories for properties fronting on Washington Avenue. The site is identified in the Redevelopment Plan as a targeted site for redevelopment. The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by compatible land uses including mixed-use developments and has access to appropriate rights-of-way. The site has frontage on Washington Avenue and Broad Street. The property is within a designated Highlands Center, where development is encouraged.
- *Developable:* The site is not located within a FEMA 100-year flood plain, has no steep slopes, and does not fall within any wetlands areas. The site is served by both public sewer and public water.
- *Approvable:* The site received Land Use Board approval on November 11, 2022 and was memorialized in a resolution reflecting the same date. An initial Redevelopment Agreement was executed between the Borough and redeveloper, 1 West Washington Ave Urban Renewal, LLC in March 2023, which stipulates affordable housing requirements in alignment with UHAC regulations (see Appendix L).

Additionally, the property aligns with the following core principles and guidelines as set forth in the Highlands Council’s Affordable Housing Implementation Guideline document:

- “The majority of new development in the Highlands Region will likely consist of redevelopment of existing developed lands. Reuse/redevelopment of previously disturbed sites should be prioritized.” This particular project consists of the reuse of an existing, underutilized building.
- “The extent and capacity of existing infrastructure should be considered in site selection, zoning ordinance amendments, and total number of projected new units.” This site falls within a designated Highlands Center, where sewer and public water are available.
- “[...] Municipalities that invite nonresidential development should seek to balance that development with residential development with an affordable housing component so that low- and moderate-income households have easier access to the jobs created.” The 1 West Washington project is a mixed-use development with existing commercial activity on the ground floor and residential uses on the upper floors.

- ~~Policy 604 of the RMP is “to encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.” The 1 West Washington project is located within the Washington Downtown Redevelopment Area, in which a majority of the Borough’s economic activity is based. The site is located in proximity to communal infrastructure including schools, places of employment, public library, parks and recreation, etc.~~
- ~~Lastly, no extension of sewer or water is required for the site, and it is not in proximity to industrial or other uses with potential for health and safety impacts.~~



2 West Washington Avenue (Block 23, Lots 17 & 18 / Block 24, Lot 25)

Commented [HD2]: Moved down to fourth round section

This project received Land Use Board approvals on June 13, 2022 for the renovation of a three-story building and the conversion of office spaces to residential units (see Appendix I). A total of ten units were approved, two of which were required to be affordable. As of the writing of this Plan, the majority of the renovations have been completed, and the redeveloper is working to affirmatively market the affordable units. The property meets the criteria to be considered “available, suitable, developable, and approvable,” as outlined below:

- *Available:* This site falls within the Washington Avenue Core District of the Washington Downtown Redevelopment Area, which permits residential uses on upper stories for properties fronting on Washington Avenue. The site is identified in the Redevelopment Plan as a targeted site for redevelopment. The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by compatible land uses including mixed-use developments and has access to appropriate rights-of-way. The approved site plan provides ingress from Belvidere Avenue and egress onto Washington Avenue. The property is within a designated Highlands Center, where development is encouraged.
- *Developable:* The site is not located within a FEMA 100-year flood plain, has no steep slopes, and does not fall within any wetlands areas. The site is served by both public sewer and public water.
- *Approvable:* The site received Land Use Board approval on June 13, 2022 and was memorialized in a resolution dated September 12, 2022. An initial Redevelopment Agreement was executed between the Borough and redeveloper, 2 West Washington, LLC in November 2024, which stipulates affordable housing requirements in alignment with UHAC regulations (see Appendix J). The Borough and redeveloper are in the process of finalizing an amended redevelopment agreement.

Additionally, the property aligns with the following core principles and guidelines as set forth in the Highlands Council’s Affordable Housing Implementation Guideline document:

- “The majority of new development in the Highlands Region will likely consist of redevelopment of existing developed lands. Reuse/redevelopment of previously disturbed sites should be prioritized.” This particular project consists of the reuse of an existing building.
- “The extent and capacity of existing infrastructure should be considered in site selection, zoning ordinance amendments, and total number of projected new units.” This site falls within a designated Highlands Center, where sewer and public water are available.
- “[...] Municipalities that invite nonresidential development should seek to balance that development with residential development with an affordable housing component so that low- and moderate-income households have easier access to the jobs created.” The 2 West Washington project is a

~~mixed-use development with existing commercial activity on the ground floor and residential uses on the upper floors.~~

- ~~• Policy 604 of the RMP is "to encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services." The 2 West Washington project is located within the Washington Downtown Redevelopment Area, in which a majority of the Borough's economic activity is based. The site is located in proximity to communal infrastructure including schools, places of employment, public library, parks and recreation, etc.~~
- ~~• Lastly, no extension of sewer or water is required for the site, and it is not in proximity to industrial or other uses with potential for health and safety impacts.~~



Downtown Redevelopment Plan (Inclusionary Zoning)

The Washington Borough Downtown Redevelopment Area encompasses approximately 41.5 total acres, and consists of five subdistricts, including:

- **Washington Avenue Core District**, which permits a mix of residential and commercial uses;
- **Route 31 Gateway District**, which permits mixed uses with residential on upper floors;
- **Theater District**, which permits a mix of multifamily residential, commercial, and mixed uses;
- **Residential District**, which permits single-, two-, and multi-family residential as well as mixed use with commercial on the ground floor and residential on upper floors; and
- **Public Park District**, which permits public facilities and green stormwater management facilities.

Washington Borough adopted the Washington Downtown Redevelopment Plan in 2009. The Redevelopment Plan was subsequently amended and adopted on September 20, 2022 to include a 20% affordable housing set-aside for residential or mixed use projects yielding 5 or more units (see Appendix H). Since this amendment, two separate applications triggering the set-aside have received site plan approvals from the Land Use Board, the details of which are outlined [below in the Fourth Round Prospective Need Obligation section of this Plan](#).

FOURTH ROUND PRESENT NEED / REHABILITATION NEED

As previously noted, the Borough has a Present/Rehabilitation Need of 0 units for the Fourth Round.

FOURTH ROUND PROSPECTIVE NEED OBLIGATION

On October 20, 2024, the New Jersey Department of Community Affairs (“DCA”) released a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of low- and moderate-income obligations for each of the State’s municipalities. The obligations were calculated in alignment with the formulas and criteria found in P.L.2024, c.2. On January 21, 2025, the Borough adopted Resolution #2025-35 accepting the DCA calculated Fourth Round Present/Rehabilitation Need of 0 units and Prospective Need obligation of 27 units. The Borough subsequently received a Court Order dated March 25, 2025 regarding Docket No. WRN-L-41-25 (see Appendix E). This Order served to “fix” Washington Borough’s established Fourth Round Present Need of 0 and Prospective Need of 27 and authorized the Borough to prepare a Fourth Round HEFSP.

As outlined below, the Borough proposes to meet its entire Fourth Round obligation through the following mechanisms.

Highlands Build-Out Update

~~Due to the unique natural resources and environmental sensitivity of the Highlands region, the revised Fair Housing Act (“FHA”) (adopted March 2024) directs the DCA and Highlands municipalities to account for the Highlands Regional Master Plan (“RMP”) when considering affordable housing. The amendment~~

specifically requires that a conforming municipality include a “consideration of the most recent Highlands Municipal Build Out report” in its Housing Element and Fair Share Plan. Following this, the Highlands Council adopted on April 18, 2024 a Highlands Affordable Housing amendment to the RMP establishing standards for the location of affordable housing based on the RMP and FHA. More specifically, Policy 607 of the RMP requires that conforming municipalities provide for a realistic opportunity for affordable housing while also complying with Highlands resource protection requirements.

In support of the goals, objectives, and policies of the RMP, the Highlands Council prepared and released a Highlands Municipal Build-Out Update and Build-Out Portal in November 2024 as a tool for fully conforming municipalities. The Build-Out functions similarly to a traditional Vacant Land Adjustment (“VLA”), which examines the amount of acreage available for development and determines a municipality’s Realistic Development Potential (“RDP”), or the portion of its affordable housing obligation that can be realistically addressed with inclusionary development. After subtracting out the RDP from the obligation, the remaining calculation is known as the “unmet need.”

As a fully conforming municipality, the Borough utilized the Highlands Build-Out Portal as a tool to calculate its RDP and remaining unmet need. The Borough’s analysis indicated that 10 of the 13 parcels identified in the portal were not developable based on a number of factors including development status. Utilizing the Highlands Build-Out portal, the Borough calculated a RDP of 5 units and an unmet need of 22 units.

Realistic Development Potential

Prior Round / Third Round Credits Carried Over

Westgate Apartments (Block 6, Lots 11.01 & 11.02)

The Borough intends to partially address the entirety of its 5-unit RDP its Fourth Round Prospective Obligation through utilizing 20 excess units from the Westgate Apartments. The Westgate Apartments is an existing 100% affordable development consisting of 68 affordable 1- and 2-bedroom family rental units. The property is located off of Kinnaman Avenue in the northeastern portion of the Borough within the R-4 Residential Zoning District. This development received credit in the Borough’s Certified Second Round Fair Share Plan as well as the Third Round Fair Share Plan.

The complex was funded through the USDA Rural Development Agency and was constructed in two separate phases: Westgate I, which received Certificates of Occupancy in 1981; and Westgate II, which received Certificates of Occupancy in 1985. Both Westgate I and Westgate II are under a 50-year deed restriction, which expire in 2031 and 2035, respectively. Both phases of the project are additionally subject to 30-year affordability controls that extend through the year 2043. These additional controls were set forth in a mortgage agreement executed between the developer and the USA Rural Housing Service on June 18, 2013 (see Appendix M).

Unmet Need

Inclusionary Zoning

Washington Downtown Redevelopment Plan

~~The Borough intends to address the entirety of its unmet need through the inclusionary set-aside provision of the Washington Downtown Redevelopment Plan. As discussed above, this set-aside requirement has already triggered the approval of six affordable units at 1 and 2 West Washington. The Washington Downtown Redevelopment Plan meets the criteria to be considered “available, suitable, developable, and available” as previously detailed.~~

Inclusionary Development

1 West Washington Avenue (Block 95, Lot 7)

The property received Land Use Board approvals on October 17, 2022 for the renovation of an existing three-story building and the conversion of vacant office units into residential units (see Appendix K). A total of 20 units were approved, 4 of which were required to be affordable. Renovation work on this project began in 2023 but was on hold while the redeveloper and Borough finalized the redevelopment agreement. As of December 2025, the redeveloper was working to finalize financing for the project and it is anticipated that the project will be fully operational and tenable by June 2027. The property meets the criteria to be considered “available, suitable, developable, and approvable,” as outlined below:

- *Available:* This site falls within the Washington Avenue Core District of the Washington Downtown Redevelopment Area, which permits residential uses on upper stories for properties fronting on Washington Avenue. The site is identified in the Redevelopment Plan as a targeted site for redevelopment. The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by compatible land uses including mixed-use developments and has access to appropriate rights-of-way. The site has frontage on Washington Avenue and Broad Street. The property is within a designated Highlands Center, where development is encouraged.
- *Developable:* The site is not located within a FEMA 100-year flood plain, has no steep slopes, and does not fall within any wetlands areas. The site is served by both public sewer and public water.
- *Approvable:* The site received Land Use Board approval on November 11, 2022 and was memorialized in a resolution reflecting the same date. An initial Redevelopment Agreement was executed between the Borough and redeveloper, 1 West Washington Ave Urban Renewal, LLC in March 2023, which stipulates affordable housing requirements in alignment with UHAC regulations (see Appendix L).

Additionally, the property aligns with the following core principles and guidelines as set forth in the Highlands Council’s Affordable Housing Implementation Guideline document:

- “The majority of new development in the Highlands Region will likely consist of redevelopment of existing developed lands. Reuse/redevelopment of previously disturbed sites should be prioritized.” This particular project consists of the reuse of an existing, underutilized building.
- “The extent and capacity of existing infrastructure should be considered in site selection, zoning ordinance amendments, and total number of projected new units.” This site falls within a designated Highlands Center, where sewer and public water are available.
- “[...] Municipalities that invite nonresidential development should seek to balance that development with residential development with an affordable housing component so that low- and moderate-income households have easier access to the jobs created.” The 1 West Washington project is a mixed-use development with existing commercial activity on the ground floor and residential uses on the upper floors.
- Policy 604 of the RMP is “to encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.” The 1 West Washington project is located within the Washington Downtown Redevelopment Area, in which a majority of the Borough’s economic activity is based. The site is located in proximity to communal infrastructure including schools, places of employment, public library, parks and recreation, etc.
- Lastly, no extension of sewer or water is required for the site, and it is not in proximity to industrial or other uses with potential for health and safety impacts.



2 West Washington Avenue (Block 23, Lots 17 & 18 / Block 24, Lot 25)

This project received Land Use Board approvals on June 13, 2022 for the renovation of a three-story building and the conversion of office spaces to residential units (see Appendix I). A total of ten units were approved, two of which were required to be affordable. As of ~~the writing of this Plan, the majority of the renovations have been completed, and the redeveloper is working to affirmatively market the affordable units. November 2025, a total of three (3) affordable units were completed and in the process of being affirmatively marketed.~~ The property meets the criteria to be considered “available, suitable, developable, and approvable,” as outlined below:

- *Available:* This site falls within the Washington Avenue Core District of the Washington Downtown Redevelopment Area, which permits residential uses on upper stories for properties fronting on Washington Avenue. The site is identified in the Redevelopment Plan as a targeted site for redevelopment. The site has no easements or title issues preventing its development.
- *Suitable:* The site is surrounded by compatible land uses including mixed-use developments and has access to appropriate rights-of-way. The approved site plan provides ingress from Belvidere Avenue and egress onto Washington Avenue. The property is within a designated Highlands Center, where development is encouraged.
- *Developable:* The site is not located within a FEMA 100-year flood plain, has no steep slopes, and does not fall within any wetlands areas. The site is served by both public sewer and public water.
- *Approvable:* The site received Land Use Board approval on June 13, 2022 and was memorialized in a resolution dated September 12, 2022. An initial Redevelopment Agreement was executed between the Borough and redeveloper, 2 West Washington, LLC in November 2024, which stipulates affordable housing requirements in alignment with UHAC regulations (see Appendix J). The Borough and redeveloper are in the process of finalizing an amended redevelopment agreement.

Additionally, the property aligns with the following core principles and guidelines as set forth in the Highlands Council’s Affordable Housing Implementation Guideline document:

- “The majority of new development in the Highlands Region will likely consist of redevelopment of existing developed lands. Reuse/redevelopment of previously disturbed sites should be prioritized.” This particular project consists of the reuse of an existing building.
- “The extent and capacity of existing infrastructure should be considered in site selection, zoning ordinance amendments, and total number of projected new units.” This site falls within a designated Highlands Center, where sewer and public water are available.
- “[...] Municipalities that invite nonresidential development should seek to balance that development with residential development with an affordable housing component so that low- and moderate-income households have easier access to the jobs created.” The 2 West Washington project is a

mixed-use development with existing commercial activity on the ground floor and residential uses on the upper floors.

- Policy 604 of the RMP is “to encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.” The 2 West Washington project is located within the Washington Downtown Redevelopment Area, in which a majority of the Borough’s economic activity is based. The site is located in proximity to communal infrastructure including schools, places of employment, public library, parks and recreation, etc.
- Lastly, no extension of sewer or water is required for the site, and it is not in proximity to industrial or other uses with potential for health and safety impacts.



Fourth Round Summary

Summary of Washington Borough's Fourth Round of 27	
Realistic Development Potential Existing 100% Affordable Family Rentals	5
<i>Excess Credits: Westgate I & II Westgate Apartments (Block 6, Lots 11.01 & 11.02)</i>	<i>205</i>
Unmet Need Existing Inclusionary Family Rentals	22
<i>Downtown Redevelopment Area</i>	<i>16</i>
<i>1 W. Washington Avenue</i>	<i>4</i>
<i>2 W. Washington Avenue (Block 23, Lots 17 & 18 / Block 24, Lot 25)</i>	<i>32</i>
Proposed Inclusionary Family Rentals	4
<i>1 W. Washington Avenue (Block 95, Lot 7)</i>	<i>4</i>
TOTAL FOURTH ROUND (27 UNIT OBLIGATION)	
	27

CONSISTENCY WITH STATE PLANNING REQUIREMENTS

State Plan

In accordance with the amended Fair Housing Act, Housing Elements and Fair Share Plans shall provide an analysis of consistency with the State Development and Redevelopment Plan (SDRP), including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

New Jersey adopted its last SDRP in 2001. A draft amendment to the SDRP was prepared in 2011 but ultimately never adopted. The Office of Planning Advocacy released a new draft SDRP on December 4, 2024. The State is currently undergoing the cross acceptance process in relation to the draft SDRP.

The 2024 draft SDRP outlines the following overarching goals:

- **Economic:** Promote economic growth that benefits all residents of New Jersey.
- **Housing:** Provide an adequate supply of housing for residents of all ages and incomes in communities of their choosing that meet their needs and offer ready access to the full range of supportive goods and services.
- **Infrastructure:** Economic opportunity through nation leading infrastructure.
- **Revitalization and Recentering:** Revitalize and recenter the State's underutilized developed areas.
- **Climate Change:** Effectively address the adverse impacts of global climate change.
- **Natural and Water Resources:** Protect, maintain, and restore the State's natural and water resources and ecosystems.
- **Pollution and Environmental Clean-Up:** Protect the environment and prevent and clean up pollution.

- **Historic and Scenic Resources:** Protect, enhance, and improve access to areas with exceptional archaeological, historic, cultural, scenic, open space, and recreational value.
- **Equity:** Implement equitable planning practices to promote thriving communities for all New Jerseyans.
- **Comprehensive Planning:** Foster sound and integrated planning and implementation at all level Statewide.

This Plan broadly aligns with the goals of the draft SDRP, specifically due to the fact that the entirety of the Borough is designated as a Highlands Center, which is equivalent to a SDRP Center. Because of this, the sites and mechanisms discussed in this Plan are appropriately located in the sense that they: are located within existing sewer and public water service areas; provide walkable access to a number of amenities including employment, shopping, schooling, municipal services, and more; and encourage growth and the revitalization of the Borough as a whole.

Further, because the mechanisms addressed in this Plan are either already existing or are concentrated in the Downtown Redevelopment Area, the use of undisturbed sites is not proposed and, in turn, the Borough's environmentally sensitive lands and resources are not impacted. This protects the natural and water resources within both the Borough and surrounding areas, effectively protecting the water quality of the State as a whole as well. Lastly, the Plan balances the State's goals of providing equitable opportunities for affordable housing while encouraging sound and comprehensive planning practices.

[Highlands Regional Master Plan Conformance](#)

Washington Borough entirely falls within the Highlands Planning Area, wherein plan conformance is voluntary. The Borough petitioned the Highlands Council for Plan Conformance as a Highlands Center on October 26, 2020, which was subsequently approved by the Highlands Council on February 18, 2021 (see Appendix N). In the years since this approval, the Borough has adopted several Master Plan Elements and Ordinances to further its goal of becoming fully conforming under the Highlands.

One recent example of this includes the Borough's adoption of Ordinance #2024-27, "Ordinance for Highlands Council Regional Master Plan Conformance" (see Appendix O). This Ordinance was the final requirement for the Borough to become fully conforming under the Highlands Council. The Highlands Council issued a letter on March 20, 2025 deeming Ordinance #2024-27 technically complete and consistent with the Highlands Regional Master Plan (see Appendix P).

Section XIV "Affordable Housing" of the Conformance Ordinance stipulates that "any development consisting of newly constructed residential units shall reserve for occupancy at least 20% [...] for low- or moderate-income households" in accordance with the requirements of the FHA. The Borough intends to further codify this by adopting the Highlands Affordable Housing Ordinance in accordance with the timeline set forth in the FHA.

This Housing Element and Fair Share Plan was prepared with careful consideration of the Regional Master Plan. In particular, the Borough's designation as a Highlands Center, existing water and sewer availability, and resource protection provisions were taken into account. Further, the mechanisms outlined in this Plan to address the Borough's Fourth Round obligation are consistent with the Highlands siting guidelines outlined in the October 2023 Affordable Housing Implementation Guide. More specifically, this Plan furthers the goals outlined in the Highlands Regional Master Plan including, but not limited to, the following:

- **2A:** Protection of the value of the Highlands Region as an "essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population."
- **2J:** All existing and future development in the Highlands Region that use public water supply systems are served by adequate and appropriate infrastructure.
- **2K:** All existing and future development in the Highlands Region that use public wastewater treatment systems are served by adequate and appropriate infrastructure.
- **6H:** Guide development away from environmentally sensitive and agricultural lands and promote development and redevelopment in or adjacent to existing developed lands.
- **6J:** Accommodation of regional growth and development needs through the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites.
- **6K:** Concentrate residential, commercial, and industrial development, redevelopment, and economic growth in existing developed areas in locations with limited environmental constraints, access to existing utility, and transportation infrastructure.
- **6N:** Use of smart growth principles, including low impact development, to guide development and redevelopment in the Highlands Region.
- **6O:** Market-rate and affordable housing sufficient to meet the needs of the Highlands Region within the context of economic, social, and environmental considerations and constraints.

Multigenerational Family Housing Continuity Commission

A previous amendment to the Fair Housing Act requires "an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20)." As of the date of this Housing Plan there have been no recommendations by the Multigenerational Family Housing Continuity Commission for which to provide an analysis.

USE OF SURPLUS CREDITS

Any surplus credits generated would be applied to any future obligation that the Borough may have.

SUMMARY OF FAIR SHARE COMPLIANCE

Summary of Washington Borough's Obligation				
	Total	Very Low	Low	Moderate
Prior Round Obligation	0	-	-	-
TOTAL PRIOR ROUND	0	-	-	-
Third Round Obligation	42			
Westgate Apartments	68	-	-	68
Gardners Court	14	9	5	-
Rental Bonus	11	-	-	-
Downtown Redevelopment Plan	25	2-3	10-11	12
Towne Center Project	10	1	4	5
Habitat for Humanity	3	-	-	3
TOTAL THIRD ROUND	131	12-13	19-20	88-20
Fourth Round Obligation	27			
RDP	5	-	-	-
Excess Credits: Westgate I & II	5	-	-	-
Unmet Need	22	-	-	-
Excess Credits: Westgate Apartments	20	-	-	20
1 W. Washington Avenue	4	1	2	1
2 W. Washington Avenue	32	1	1	1
Downtown Redevelopment Area	16	-	-	-
TOTAL FOURTH ROUND	27	2	3	22

Appendix A

Washington Borough Third Round JOR

Appendix B
Washington Borough Third Round
Settlement Agreement with FSHC

Appendix C
Washington Borough Third Round
Settlement Agreement with Washington Ventures

Appendix D
Washington Borough Resolution #2025-35
Establishing Fourth Round Obligation

Appendix E
Court Order Fixing Washington Borough’s
Obligations for “Present Need” and “Prospective Need”
for the Fourth Round Housing Cycle

Appendix F
Towne Center
Redevelopment Agreement Documentation

Appendix G
Planning Board Resolution
Approving Towne Center Site Plan
And Subsequent Amendments

Appendix H
Washington Borough Amended Downtown
Redevelopment Plan

Appendix I
Land Use Board Resolution
Approving 2 West Washington Site Plan

Appendix J
2 West Washington
Redevelopment Agreement

Appendix K
Land Use Board Resolution
Approving 1 West Washington Site Plan

Appendix L
1 West Washington
Redevelopment Agreement

Appendix M

Westgate Deed Restrictions

Appendix N
Washington Borough Petition for
Conformance as Highlands Center

Appendix O
Washington Borough Resolution #2024-27
Highlands Conformance Ordinance

Appendix P
Highlands Council Letter Deeming
Conformance Ordinance Consistent and Complete

Appendix Q1
Washington Borough Council
Resolution Appointing Administrative Agent

Appendix Q2
Washington Borough Council
Resolution Appointing Municipal Housing Liaison

Appendix Q3
Washington Borough Council Resolution
Adopting Affirmative Marketing Plan +
Affirmative Marketing Plan

Appendix Q4
Washington Borough Council Resolution Adopting
For-Sale and Rental Operating Manuals +
Operating Manuals

Appendix Q5
Washington Borough
Highlands Affordable Housing Ordinance Draft

Appendix R
December 30, 2025 Settlement Agreement
between Washington Borough and
Fair Share Housing Center

BOROUGH OF WASHINGTON

ORDINANCE 2026-04

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF WASHINGTON IN THE COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF WASHINGTON TO INCLUDE AND DESIGNATE DATA CENTERS AS A NON-PERMITTED USE IN ALL ZONES WITHIN THE BOROUGH OF WASHINGTON

WHEREAS, the Borough of Washington Master Plan emphasizes protection of the Borough/Township/Town's rural character, agricultural lands, scenic landscapes, environmental resources, and historic and cultural heritage; and

WHEREAS, data centers, by nature, present an intense and unique form of use of land use and development, posing significant challenges related to electricity consumption, noise, air quality, water use, community character and long-term planning objectives; and

WHEREAS, preliminary data cited by Members of the New Jersey State Legislature has cautioned that large-scale data centers can use as much as 3 to 5 million gallons of water in a single day between liquid cooling and water consumed to generate the energy that powers them; and

WHEREAS, this extreme volume of water usage impacts homes and businesses both within the municipality and the surrounding communities; and

WHEREAS, preliminary studies noted by the State Legislature also indicate that some data centers require 300 MW of electricity, which is roughly equivalent to the output of a small modular nuclear reactor; and

WHEREAS, aside from increases in taxes and governmental services across the board, in only the last year the majority of the State has already seen consumer energy costs increase more than twenty percent (20%), with additional increases expected within the next few months; and

WHEREAS, the high-tech data centers that are proliferating throughout the state consume a large amount of electrical power at a time when energy costs are increasing for ratepayers; and

WHEREAS, it is well established that overdevelopment, urbanization and overuse of environmental resources impacts subterranean aquifers and the quality of drinking and other water resources and poses a substantial strain on community water resources; and

WHEREAS, the Governing Body is conscious of the hazards, such as depletion of critical groundwater resources, and the impact on the environmental and natural resources posed by the scope, depth and pervasiveness of large-scale commercial data center operations; and

WHEREAS, municipal regulations designed for the preservation of the environment and the protection of ecological values are a well-recognized, legitimate and proper exercise of municipality authority; and

WHEREAS, cutting and removal of trees has been found to cause and create increased soil erosion and dust, instability and deterioration in the value of surrounding property and other adverse environmental and geographical conditions; and

WHEREAS, dramatic increases and changes in population, development and the impact of certain data center operations on residents, businesses, the environment, and private and public property have imposed significant burdens on municipal resources and have created increased need to balance the rights and interests of the residents and general public with that of the legitimate rights of property owners to conduct business without unreasonable regulation; and

WHEREAS, in light of these significant changes in confluence with modern advancement in technology, scientific and environmental research that have allowed for a more accurate and comprehensive understanding of the hazards and dangers posed to surrounding property, environmental and natural resources, the general public, and the proliferation and expansion of governmental regulation of the environment, safety and business in general, that have occurred since the enactment of the municipalities zoning and development regulations, the Mayor and Council have determined it necessary and appropriate to amend and update its ordinances to adequately address data center uses in a manner that best reflects present needs and realities; and

WHEREAS, the Mayor and Council of the Borough of Washington. have determined that it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of its residents and members of the public who visit, travel or conduct business in the Borough, to amend the Borough Code to include all manner of data centers land use and development as a non-permitted use within the geographic boundaries of the Borough and to otherwise improve and strengthen the nature, scope, manner and effectiveness of such regulations;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Washington., in the County of Warren, State of New Jersey as follows:

Section 1. Chapter 94, Zoning, Article III, Definitions and Word Usage, § 94-5, “Definitions” of the Code of Ordinances of the Borough of Washington is hereby amended and supplemented to add a new section/subsection as follows:

DATA CENTER shall mean and include any facility used primarily for the storage, management, and processing of digital or electronic data, which houses computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, systems for monitoring and managing infrastructure performance, Internet-related equipment and services, data communications connections, environmental controls, fire protection systems, and security systems and services. Typical accessory components of a data center may include transformers, electrical substations, environmental controls, fire suppression, generators, redundant power supplies and security facilities.

Section 2. Chapter 94, Zoning, Article VII, Zone District Requirements, § 94-73, Prohibited Uses of the Code of Ordinances of the Borough of Washington. is hereby amended and supplemented to add, “Data Center” as a Prohibited Use:

D. All Data Centers as defined in Chapter 94, Zoning, Article III, Definitions and Word Usage, § 94-5, Definitions of the Code of Ordinances of the Borough of Washington and any and all uses related to the same.

Section 3. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

Section 4. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the [Planning Board/Land Use Board] of the Borough of Washington. for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board/Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate. Upon the adoption of this Ordinance, after public hearing, the Borough Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Warren County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 5. Repealer. All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Severability. Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Section 7. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

Section 8. Prior actions. All actions of the Borough of Washington. taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

Section 9. Codification. This Ordinance may be renumbered for codification purposes.

Introduced: February 17, 2026

Public Hearing/Adopted: March 17, 2026

ADOPTED:

X

Laurie A. Courter
Borough Clerk

**ORDINANCE 2026-05
AFFORDABLE HOUSING ORDINANCE
BOROUGH OF WASHINGTON, WARREN COUNTY**

AN ORDINANCE OF THE BOROUGH OF WASHINGTON, WARREN COUNTY REPEALING ARTICLE VIII, ENTITLED "AFFORDABLE HOUSING," AND ARTICLE IX, ENTITLED "DEVELOPMENT FEES", OF CHAPTER 94, ENTITLED "ZONING AND LAND DEVELOPMENT," OF THE BOROUGH CODE AND ESTABLISHING ARTICLE VIII, ENTITLED "AFFORDABLE HOUSING ORDINANCE"

WHEREAS the Borough of Washington Land Use Board adopted a Fourth Round Housing Element and Fair Share Plan ("HEFSP") on June 16, 2025 pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), and the Borough Council endorsed the HEFSP on June 17, 2025 via Resolution #2025-108; and

WHEREAS this Ordinance implements and incorporates the adopted and endorsed Fourth Round Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:99, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985 as amended; and

WHEREAS this Ordinance is intended to provide assurances 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 those units; and

WHEREAS this Ordinance shall apply except where inconsistent with applicable law.

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Washington, Warren County, New Jersey that Article VIII, entitled "Affordable Housing," and Article IX, entitled "Development Fees," of Chapter 94, entitled "Zoning and Land Development," of the Borough Code are hereby repealed, and Article VIII, entitled "Affordable Housing Ordinance," is hereby created to replace such articles to include the provisions addressing Washington's constitutional obligation to provide for its fair share of very-low-, low-, and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:99, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Section 1. Article VIII, entitled "Affordable Housing Ordinance," of Chapter 94, entitled "Zoning and Land Development," is hereby created to read as follows:

§94.87 Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in Washington Borough 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% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Washington Borough Land Use Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
 - a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
 - b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

§94-87.1 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 may be 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 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.

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

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

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

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

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

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

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

"Regional contribution agreement" or "RCA" means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into and was approved by COAH and/or Superior Court prior to July 18, 2008, to transfer a portion of a municipality's affordable housing obligation to another municipality within its housing region.

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

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

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

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

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

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

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

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

out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant's self-identification of household members on the affordable housing application.

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

"Supportive housing unit" means a restricted rental unit 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.

"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.

§94-87.2 Monitoring and Reporting Requirements

A. 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:

1. 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>.

2. 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.

3. 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.

§94-87.3 Municipality-wide Mandatory Set-Aside

- 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%.
- B. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
- C. 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.
- D. 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.
- E. 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.
- F. 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.

- G. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall address the fractional unit as follows:
1. 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% 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% 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.

94-87.4 Affordable Housing Programs

- A. 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.
- B. 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).
1. 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.
 2. Both ownership and rental units shall be eligible for rehabilitation funds.
 3. 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.
 4. 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.

5. 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.
 6. 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.
- C. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
1. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units .
 2. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
 3. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.
 4. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
 5. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 6. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
- D. Market to Affordable program (per N.J.A.C. 5:97-6.9).
1. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
 2. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 3. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.

4. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
 5. The units shall comply with UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
 6. Affordability average (N.J.A.C. 5:80-26.4); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
- E. 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)).
1. 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% affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
- F. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
1. 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.
 2. 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.
 3. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 4. 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.
 5. Low- and moderate-income residents cannot be charged any upfront fees.

6. 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
 7. 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.
- G. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
1. 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 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.

§94-87.5 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.).

A. 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.

B. 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

C. Design. The following design requirements apply to affordable housing developments, excluding prior round units.

- 1. 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.

- x. Each bedroom in each restricted unit must have at least one window.

- xi. Restricted units must include adequate air conditioning and heating.

- 2. 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.
3. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
- i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - xii. 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.
 - xiii. 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).
 - xiv. 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.
 - xv. Each bedroom in each restricted unit must have at least one window; and
 - xvi. Restricted units must include adequate air conditioning and heating.

D. Utilities.

1. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
2. 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).

E. Low/moderate split and bedroom distribution.

1. 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.
2. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units. Washington Borough has chosen to allow rounding.
3. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
4. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units. Washington Borough has chosen to allow rounding.
 - iv. At least 30% of all low- and moderate-income units, rounded up, shall be two-bedroom units. Washington Borough has chosen to allow rounding.
 - v. At least 20% of all low- and moderate-income units, rounded up, shall be three-bedroom units. Washington Borough has chosen to allow rounding.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
5. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.

F. Accessibility requirements.

1. 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.
2. 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% of the adaptable entrances in the development accessible:
 - (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

§94-87.6 Regional Income Limits.

- A. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
- B. 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.
- C. 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.

§94-87.7 Maximum Initial Rents And Sales Prices.

- A. 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.
- B. 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.
- C. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income.
- D. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least

13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.

- E. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
- F. 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.
- G. 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:
 - 1. A studio or efficiency unit shall be affordable to a one-person household;
 - 2. A one-bedroom unit shall be affordable to a one and one-half person household;
 - 3. A two-bedroom unit shall be affordable to a three-person household;
 - 4. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - 5. A four-bedroom unit shall be affordable to a six-person household.
- H. 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:
 - 1. A studio or efficiency unit shall be affordable to a one-person household;
 - 2. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - 3. 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.
- I. 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.
- J. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.

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

§94-87.8 Affirmative Marketing.

- A. 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.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 and is required to be followed throughout the period of deed restriction.
- C. The Affirmative Marketing Plan provides the following preference, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences:
 - 1. There shall be a regional preference for all households that live and/or work in Housing Region 2 comprising of Essex, Morris, Union, and Warren Counties.
- D. 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.
- E. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
- F. 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.
- G. 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 plan shall include the following community and regional organizations: Fair Share Housing Center; the Latino Action Network; NORWESCAP; Supportive Housing Association; Central Jersey Housing Resource Center; New Brunswick NAACP; Plainfield Area NAACP; Perth Amboy NAACP; Warren/Sussex NAACP; and Metuchen/Edison NAACP. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
- H. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- I. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

- J. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner. This shall be included as a condition of all Land Use Board approvals.

§94-87.9 Selection of Occupants of Affordable Housing Units.

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

§94-87.10 Occupancy Standards.

- A. 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:
 - 1. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - 2. Provide a bedroom for every two adult occupants;
 - 3. 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
 - 4. Avoid placing a one-person household into a unit with more than one bedroom.

§94-87.11 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. 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.
- B. 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).
- C. 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.
- D. 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.
- E. 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:
 - 1. 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
 - 2. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
- F. 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.
- G. 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.
- H. 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.

- I. 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.

§94-87.12 Price Restrictions for Restricted Ownership Units and Resale Prices.

- A. 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:
 1. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 2. 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
 3. 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);
 4. 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.
- B. 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.

§94-87.13 Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.

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

§94-87.14 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. 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.
- B. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

§94-87.15 Control Periods for Restricted Rental Units.

- A. 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.

- B. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit;
 - 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - 4. 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.

§94-87.16 Rent Restrictions for Rental Units; Leases and Fees.

- A. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
- B. 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.
- C. 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.
 - 1. 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.
- D. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- E. 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.
- F. 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.
- G. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.

- H. 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.

§94-87.17 Tenant Income Eligibility.

- A. 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:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - 3. The household is currently in substandard or overcrowded living conditions;
 - 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - 5. 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.
- C. 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.

§94-87.18 Municipal Housing Liaison.

- A. The Municipal Housing Liaison shall be approved by municipal resolution.
- B. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
- C. 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:
 - 1. 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.
 - 2. The oversight of the Affirmative Marketing Plan and affordability controls.
 - 3. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - 4. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - 5. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - 6. Coordinating meetings with affordable housing providers and administrative agents, as needed.

7. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
 8. 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.
 9. 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.
 10. Listing on the municipal website contact information for the MHL and Administrative Agents.
- §94-87.19 Administrative Agent.
- A. 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.
 - B. The fees for administrative agents shall be paid as follows:
 1. Administrative agent fees related to rental units shall be paid by the developer/owner.
 2. Administrative agent fees related to initial sale of units shall be paid by the developer.
 3. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 4. Administrative agent fees related to ongoing administration and enforcement shall be paid by the developer.
 - C. 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.
 - D. 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:
 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 2. 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.
 3. Household certification.
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households.
 - ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
 4. 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.
5. 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.
 6. 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.
 7. 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.
 8. 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.
 9. 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.
- §94-87.20 Responsibilities of The Owner of a development containing affordable units.
- A. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:

1. 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.
 2. The total number of units in the project and the number of affordable units.
 3. 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.
 4. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 5. A projected construction schedule.
 6. The location of any common areas and elevators.
 7. 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.
- B. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
1. 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.
 2. Provide to the administrative agent a description of any applicable fees.
 3. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 4. 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.
 5. Provide to the administrative agent a proposed form of lease for any rental units.
 6. 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.
 7. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
- C. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
1. Proposed pricing for all units, including any purchaser options and add-on items.
 2. Condominium or homeowner association fees and any other applicable fees.
 3. Estimated real property taxes.
 4. Sewer, water, trash disposal, and any other utility assessments.
 5. Flood insurance requirement, if applicable.
 6. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§94-87.21 Enforcement of Affordable Housing Regulations

- A. 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.

- B. 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:
1. 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.
- C. 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.
- D. 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.
1. 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.
 2. 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.
 3. 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.

4. 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.
 5. 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.
 6. 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.
- E. 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.
- F. 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.
- G. 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.
- H. Appeals
1. 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.

§94-87.22 Development Fees.

A. Purpose

1. 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.
- B. Basic Requirements
1. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
 2. The municipality shall not spend development fees until the court has approved a plan for spending such fees.
- C. Residential Development Fees
1. Imposed fees
 - i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
 - ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
 2. 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. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.
 - iv. Developers of educational facilities shall be exempt from paying a development fee.
 - v. Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided

that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

- vi. A development shall be exempt from an increase in the percentage of the development fee, provided the building permit was issued prior to the effective date of this article, or prior to any subsequent ordinance increasing the fee percentage. The developer shall have the right to pay the fee based on the percentage in effect on the date the building permit was issued.
- vii. Any development or improvement to structures of owner-occupied property in which there is located an affordable accessory residence shall be exempt. This exemption shall only apply to development or improvements to the property during the period of affordability controls.
- viii. The construction of a new accessory building or other structure on the same lot as the principal building shall be exempt from the imposition of development fees if the assessed value of the structure is determined to be less than \$100,000.

D. Non-Residential Development Fees

1. Imposition of fees

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

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

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

3. 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.

4. 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.

5. 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.

E. Collection Procedures

1. 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.
 2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. 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.
 7. 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).
 8. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
- F. Appeal of development fees
1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by 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.
 2. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the 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.
- G. Affordable Housing Trust Fund
1. 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.
 2. 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% 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.
3. 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.
 4. 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.
 5. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
- H. Use of Funds
1. 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.
 2. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
 3. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units

included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.

- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
4. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.
- I. Monitoring
1. 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.
- J. Ongoing Collection of Fees
1. 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.
 2. 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).
- K. 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 3. Repealer. All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Severability. If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

Introduced: February 17, 2026

Public Hearing/Adopted: March 17, 2026

ADOPTED:

X

Laurie A. Courter
Borough Clerk

TO: Washington Borough Land Use Board

CC: Mary Ward, Land Use Board Secretary
Steve Gruenberg, Esq., Land Use Board Attorney
Stanley Schrek, P.E., Land Use Board Engineer

FROM: Hanah Davenport, PP, AICP, Board Planner

RE: Master Plan Consistency re: Ordinance No. 2026-05 – Affordable Housing Ordinance

DATE: March 2, 2026

Introduction

At its meeting scheduled for March 11, 2026, the Council of Washington Borough will consider, for final reading and adoption, Ordinance No. 2026-05, "An Ordinance of the Borough of Washington, Warren County Repealing Article VIII, Entitled 'Affordable Housing,' and Article IX, Entitled 'Development Fees,' of Chapter 94, Entitled 'Zoning and Land Development,' of the Borough Code and Establishing Article VIII, Entitled 'Affordable Housing Ordinance.'" The ordinance was introduced at the Council's February 17, 2026 meeting.

As part of this process, the Land Use Board must review the Ordinance per the regulations included within the Municipal Land Use Law at N.J.S.A. 40:55D-26.a., which states:

"Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate."

The Board's task is twofold: 1) identify any potential inconsistencies with the Borough's Master Plan, and 2) provide a report to the governing body with any recommendations pertaining to the inconsistencies or other matters. The following section outlines the content of the ordinance.

Summary of Ordinance No. 2026-05

In summary, Ordinance No. 2026-05 modifies existing Chapter 94, entitled “Zoning and Land Development.” More specifically, it repeals existing Article VIII, entitled “Affordable Housing,” and Article IX, entitled “Development Fees,” and establishes new Article VIII, entitled “Affordable Housing Ordinance.”

This Ordinance includes updated language reflecting the recently amended regulations set forth in the Fair Housing Act (P.L. 2024, c.2), 5:99 Substantive Rules (N.J.A.C. 5:99-1.1, et seq.), and Uniform Housing Affordability Control (“UHAC”) Rules (N.J.A.C. 5:80-26.1, et seq.), as well as other applicable regulations.

The intent of this Ordinance is to ensure that very-low, low-, and moderate-income 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. The Ordinance broadly regulates the implementation and enforcement of affordable housing in the Borough, with particular attention to the following:

- Monitoring and reporting requirements;
- Standards for new affordable housing construction, as well as optional affordable housing programs including rehabilitation, accessory apartments, market to affordable units, extensions of controls, assisted living residences, and supportive housing and group homes;
- Matters relevant to implementation, including regional income limits, maximum initial rents and sales prices, affirmative marketing, selection of occupants, occupancy standards, control periods and price/rent restrictions for restricted ownership and rental units, buyer income eligibility, limitations on indebtedness secured by ownership units, tenant income eligibility;
- The responsibility of administrative roles, including the Municipal Housing Liaison and Administrative Agent;
- The collection, monitoring and reporting, and use of development fees via the Borough’s Affordable Housing Trust Fund.

Master Plan Considerations

Washington Borough adopted its most recent Master Plan Reexamination Report in April 2022. The 2022 Reexamination Report cites the 2007 Master Plan Reexamination Report, indicating that affordable housing—which was one of four assumptions that formed the basis of the 2007 Master Plan—should remain a priority for the Borough.

Ordinance No. 2026-05 supports this priority by (a) codifying the most recent State rules and regulations relevant to affordable housing as set forth in the Fair Housing Act, 5:99 Substantive Rules, and UHAC Rules and, as a result, (b) ensuring that the implementation of affordable housing in the Borough is achieved in compliance with such standards. It additionally supports the implementation of the affordable housing

mechanisms outlined in the Borough's Fourth Round Housing Element/Fair Share Plan, which is an element of the Master Plan.

Master Plan Consistency Review

It is our opinion that Ordinance No. 2026-05 is not inconsistent with the Borough's Master Plan, as it supports a key priority enumerated in the 2021 Master Plan Reexamination Report that was marked as remaining of importance in the Borough. It additionally supports the implementation of the mechanisms within the Borough's Fourth Round Housing Element/Fair Share Plan and perpetuates its ability to meet its Fair Share of affordable housing within the State.



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<i>Affidavits</i> 1	<i>AffidavitsCost</i> \$100.00	<i>Total Amount</i> \$200.57
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<i>Run Dates</i> 02/27/2026	<i>Sort Text</i> BOROUGHOFWASHINGTONWARRENCOUNTYLANDUSEBOARDNOTICEOFHEARINGPLEASETAKENOTICETHATPU

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<i># Inserts</i> 1	<i>POS/Sub-Class</i> Notices
<i>Cost</i> \$0.00	<i>AdNumber</i> 0011074138-01
<i>Ad Type</i> NJ SL Legal Liner	<i>Ad Size</i> 2 X 56 li
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<i>Production Method</i> AdBooker	<i>Production Notes</i>
<i>Run Dates</i> 02/27/2026	<i>Sort Text</i> BOROUGHOFWASHINGTONWARRENCOUNTYLANDUSEBOARDNOTICEOFHEARINGPLEASETAKENOTICETHATPU

**BOROUGH OF WASHINGTON
WARREN COUNTY
LAND USE BOARD
NOTICE OF HEARING**

PLEASE TAKE NOTICE that, pursuant to N.J.S.A. 40:55D-13 of the Municipal Land Use Law (the “MLUL”), the Borough of Washington Land Use Board will conduct a public hearing at the Borough of Washington Municipal Building located at 100 Belvidere Avenue, Washington, NJ 07882, at 7:00 p.m. on March 9, 2026 to hear public comment on the adoption of the Borough’s Fourth Round Housing Element and Fair Share Plan (“HEFSP”), which will amend the Borough’s Master Plan. After hearing public comment, the Land Use Board shall consider adoption of the Fourth Round Housing Element and Fair Share Plan by way of Resolution and forward to the Borough Mayor and Council for its review.

The proposed Fourth Round HEFSP was prepared in accordance with N.J.S.A. 40:55D-28(b)(3) of the MLUL and the mandatory requirements of a Housing Element under the amended New Jersey Fair Housing Act (P.L. 2024, c.2), applicable regulations of the New Jersey Council on Affordable Housing (“COAH”), and the Administrative Office of the Courts Directive #14-24. The Fourth Round Housing Element and Fair Share Plan also delineates the actions taken, and to be taken, by the Borough to create a “realistic opportunity” to satisfy its “fair share” of the regional need for affordable housing.

The Amended 2025 HEFSP, an element of the Borough’s Master Plan, describes how the Borough will meet its fourth-round affordable housing obligations through various compliance mechanisms.

A copy of the proposed Fourth Round Housing Element and Fair Share Plan of the Borough’s Master Plan, and any other relevant documents, are on file for public inspection 10 days prior to the hearing and available Monday through Friday in the Office of the Land Use Board Secretary at the Borough of Washington Municipal Building located at 100 Belvidere Avenue, Washington, NJ 07882, during regular business hours. Any party interested in commenting on the Amended 2025 Fourth Round Housing Element and Fair Share Plan may do so at the public hearing or may submit written comments to the Land Use Board prior to the public

hearing date.

Date Published: February 27, 2026

Mary Ward, Land Use Board Secretary
Borough of Washington
Land Use Board Secretary

2/27/26

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McNally • Yaros • Kaczynski • Lime

Robert T. McNally
Mark W. Yaros*
Kara A. Kaczynski

Daniel A. Lime II, Of Counsel (Ret.)
Robert A. Pinel, Of Counsel
James R. Swick, Of Counsel (Ret.)

www.mykl-law.com

*Admitted in NJ & PA

Reply to:
Somerville Office

February 18, 2026

Mary Ward, Board Secretary
Land Use Board
Borough of Washington
100 Belvidere Avenue
Washington, NJ 07882

Via e-mail: mward@washingtonboro-nj.org

**RE: Joseph Morcos (the “Applicant”)
162 East Washington Avenue - Block: 65, Lot: 3 (the “Property”)
Our File # 23-4505**

Dear Ms. Ward:

As you are aware, this office represents the Applicant in connection with his application before the Land Use Board (the “Board”) concerning the above-captioned property, which is currently scheduled for a public hearing on March 9, 2026.

Kindly accept this letter as a formal request to adjourn the March 9, 2026 public hearing to the Board’s next regularly scheduled meeting of April 13, 2026, without the need for any additional notice and/or publication. Unfortunately, our experts are unavailable for the hearing and therefore we will be unable to proceed.

Thank you, in advance, for your assistance with this request and please do not hesitate to contact me with any questions relative thereto.

Very truly yours,
McNALLY, YAROS, KACZYNSKI & LIME, LLC

Kara A. Kaczynski
KAK/kv

cc: Client and Project Team, via e-mail
Steven P. Gruenberg, Esq., Board attorney, via e-mail: stevenpgruenberg@gruenberglegal.com
Stanley Schrek, PE, Board engineer, via e-mail: sschrek@vancleefengineering.com
Susan Gruel, PP, Board planner, via e-mail: mail@hgapa.com

SOMERVILLE
275 East Main Street
Somerville, New Jersey 08876
908.800.7010 Phone
908.722.7787 Fax

CLINTON
14 Moebus Place
Clinton, NJ 08809
908.713.1252 Phone
908.713.1210 Fax

FLEMINGTON
Plaza One
1 State Route 12, Suite # 201
Flemington, NJ 08822
908.800.7010 Phone
908.722.7787 Fax