

SPECIAL TOWNSHIP COMMITTEE MEETING – MARCH 14, 2026

Mayor McMillan called the meeting to order at 6:00 p.m. and requested the Clerk to call the roll. The following members were present: Robert Lane, Jr., Tassie D. York, Bryan Acciani (Telephonically), Derel Stroud (Telephonically), and Mayor Kevin McMillan.; absent: None

Also present were William Bray, Township Clerk and Township Attorney Lelise Park.

Mayor McMillan announced that the notice requirements of R.S. 10:4-18 have been satisfied by providing adequate notice The Coaster and the Asbury Park Press of the Special Meeting on March 4, 2026, posting the notice on the Board in the Municipal Complex, and filing a copy of said notice with the Municipal Clerk. In addition, the meeting agenda is posted on the Township web site (www.neptunetownship.org) and the meeting is being streamed live via townhallstreams.com.

ORDINANCES – PUBLIC HEARING & FINAL ADOPTION -

Ordinance 26-07 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-07. There were no comments.

Mayor McMillan closed the Public Hearing and called for a motion. Committeewoman York made a motion to adopt Ordinance 26-07, seconded by Committeeman Lane.

ORDINANCE 26-07

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY ESTABLISHING A NEW ZONING DISTRICT ENTITLED “AFFORDABLE HOUSING ZONE – 2(AH-2) WITHIN THE TOWNSHIP OF NEPTUNE, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, Neptune Township’s Land Development Ordinance and Regulations include standards that control the location, scale, and type of land uses within the Township; and

WHEREAS, in accordance with section 40:55D-62 of the Municipal Land Use Law, the Neptune Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of the uses of the land and of buildings and structures thereon in order to protect the general health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, that the Land Development Ordinance of the Township of Neptune is hereby amended as follows:

SECTION 1. Section 300 Zoning Districts.

Affordable Housing Zone – 2 (AH-2)

SECTION 2. Section 406.03 Affordable Housing Zone – 2

- A. Purpose. The purpose of the 1201 Route 35 Affordable Housing Zone is to permit multi-family residential development that includes an affordable housing component, thereby advancing the Township’s efforts to meet its constitutionally mandated affordable housing obligations in accordance with applicable State law.
- B. Permitted Uses.
 - a. Multi-family dwellings (a maximum of 98 units of which 20 are low- and moderate-income units)
- C. Location: Block 5602, Lot 19
- D. Accessory permitted uses.
 - a. Parking areas and electric vehicle charging stations.
 - b. Interior amenities, including, but not limited to: community room, wellness and health room(s), library, meeting rooms, lobbies, laundry areas, mail centers, fitness rooms, and other traditional ancillary spaces intended to serve the residents.
 - c. Utility rooms
 - d. Indoor and outdoor recreational areas
 - e. Bicycle storage facilities
 - f. Patios, balconies, rooftop amenities, and porches intended to serve the

- residents.
 - g. Mail rooms and package rooms
 - h. Trash and recycling rooms and enclosures
 - i. Storage and equipment sheds
 - j. Stormwater management facilities, including but not limited to typical stormwater basins as well as underground recharge basins.
 - k. Private and public utility structures, including standby generators intended to serve the residents.
 - l. Signage in accordance with § LDO-416 SIGNS
 - m. Fences and walls
 - n. Temporary construction trailers
 - o. Accessory uses customarily incidental to a permitted principal use as approved by the Planning Board.
- E. Bulk Regulations. Development in the Memorial Drive Affordable Housing Zone shall be subject to the following bulk regulations:
- a. Minimum lot area: 75,000 SF
 - b. Minimum lot width: 200 FT
 - c. Minimum lot frontage: 200 FT
 - d. Minimum lot depth: 100 FT
 - e. Minimum front yard setback: 15 FT ?
 - f. Minimum side yard setback-commercial: 10 FT
 - g. Minimum side yard setback – residential – 20 FT
 - h. Minimum side yard setback (combined): 30 FT
 - i. Minimum rear yard setback: 20 FT
 - j. Maximum building coverage: 75% *
 - k. Maximum lot coverage: 80%
 - l. Maximum number of stories: 4 stories
 - m. Maximum Density (dwelling units per acre): 49.5 DU/AC
 - n. Maximum Floor Area Ratio: 2.50 *
 - o. Minimum improvable area (total area): 40,000 SF
 - p. Minimum Improvable area (diameter of a circle): 130 FT
- F. Development in the 1205 Route 35 Affordable Housing Zone shall be consistent with NJ Residential Site Improvement Standards found within N.J.A.C. 5:21.
- G. Architectural Design Standards. Development in the 1201 Route 35 Affordable Housing zone shall be consistent with the applicable Architectural and Design Standards found within § LDO-502, except that ground floor parking level walls may be straight and shall not be required to be articulated or stepped. Upper levels of the buildings shall comply.
- H. Buffering and Screening. Buffering and screening in the 1201 Route 35 Affordable Housing Zone shall be consistent with the applicable Buffering and Screening requirements found within § LDO-503, unless otherwise expressly permitted by the board.
- I. Landscaping. Landscaping within the 1201 Route 35 Affordable Housing zone shall be consistent with the applicable landscaping requirements found within § LDO-509 unless otherwise expressly permitted by the board.

* Note building coverage and FAR include the enclosed ground floor parking level.

SECTION 2. All Ordinances, or parts thereof, inconsistent with the provision of this Ordinance, and the same are hereby repealed to the extent of such inconsistency.

SECTION 3. Should any section, paragraph, clause or any other portion of the Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgement shall not affect or impair the remainder of this Ordinance.

SECTION 4. This ordinance shall take effect upon its passage and publication according to law upon the filing of a certified copy thereof with the Monmouth County Planning Board.

Ordinance 26-07 was Adopted on the following vote: AYE: Lane, York, Acciani, Stroud, McMillan; NAY: none; ABSENT: None.

Ordinance 26-08 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-08. There were no comments.

Mayor McMillan closed the Public Hearing and called for a motion. Committeeman Lane made a motion to adopt Ordinance 26-08, seconded by Committeewoman York.

ORDINANCE 26-08

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY ESTABLISHING A NEW ZONING DISTRICT ENTITLED "AFFORDABLE HOUSING ZONE – 5 (AH-5) WITHIN THE TOWNSHIP OF NEPTUNE, MONMOUTH COUNTY NEW JERSEY

WHEREAS, Neptune Township's Land Development Ordinance and Regulations include standards that control the location, scale, and type of land uses within the Township; and

WHEREAS, in accordance with section 40:55D-62 of the Municipal Land Use Law, the Neptune Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of the uses of the land and of buildings and structures thereon in order to protect the general health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, that the Land Development Ordinance of the Township of Neptune is hereby amended as follows:

SECTION 1. Section 300 Zoning Districts.

Affordable Housing Zone – 5 (AH-5)

SECTION 2. Section 406.06 Affordable Housing Zone – 5

- A. Purpose. The purpose of the AH-5 Affordable Housing Zone is to permit multi-family residential development that includes an affordable housing component, thereby advancing the Township's efforts to meet its constitutionally mandated affordable housing obligations in accordance with applicable State law.
- B. Location; Block 302, Lot 27
- C. Permitted Uses.
 - a. Multi-family dwellings (maximum of 75 units of which 7 are available to low- and moderate-income households.
- D. Accessory permitted uses.
 - a. Parking areas and electric vehicle charging stations.
 - b. Interior amenities, including, but not limited to: community room, wellness and health room(s), library, meeting rooms, lobbies, laundry areas, mail centers, fitness rooms, and other traditional ancillary spaces intended to serve the residents.
 - c. Utility rooms
 - d. Indoor and outdoor recreational areas
 - e. Bicycle storage facilities
 - f. Patios, balconies, and porches intended to serve the residents.
 - g. Mail rooms and package rooms
 - h. Trash and recycling rooms and enclosures
 - i. Storage and equipment sheds
 - j. Stormwater management facilities, including but not limited to typical stormwater basins as well as underground recharge basins.
 - k. Private and public utility structures, including standby generators intended to serve the residents.
 - l. Signage in accordance with § LDO-416 SIGNS
 - m. Fences and walls
 - n. Temporary construction trailers
 - o. Accessory uses customarily incidental to a permitted principal use as approved by the Planning Board.
- E. Bulk Regulations. Development in the AH-5 Zone shall be subject to the following bulk regulations:
 - a. Minimum lot area: 75,000 SF
 - b. Minimum lot width: 450 FT
 - c. Minimum lot frontage: 450 FT
 - d. Minimum lot depth: 100 FT
 - e. Minimum front yard setback: 0 FT – or 5 FT ?
 - f. Minimum side yard setback: 50 FT

- g. Minimum side yard setback (combined): 50 FT
 - h. Minimum rear yard setback: 25 FT
 - i. Maximum building coverage: 45%
 - j. Maximum lot coverage: 80%
 - k. Maximum number of stories: 4 stories
 - l. Maximum Density (dwelling units per acre): 40.7 DU/AC
 - m. Maximum Floor Area Ratio: 1.25
 - n. Minimum improvable area (total area): 40,000 SF
 - o. Minimum Improvable area (diameter of a circle): 130 FT
- F. Development in the AH-5 Zone shall be consistent with NJ Residential Site Improvement Standards found within N.J.A.C. 5:21.
- G. Architectural Design Standards. Development in the AH-5 zone shall be consistent with the applicable Architectural and Design Standards found within § LDO-502.
- H. Buffering and Screening. Buffering and screening in the AH-5 Zone shall be consistent with the applicable Buffering and Screening requirements found within § LDO-503, unless otherwise expressly permitted by the board.
- I. Landscaping. Landscaping within the AH-5 zone shall be consistent with the applicable landscaping requirements found within § LDO-509 unless otherwise expressly permitted by the board.

SECTION 3. All Ordinances, or parts thereof, inconsistent with the provision of this Ordinance, and the same are hereby repealed to the extent of such inconsistency.

SECTION 4. Should any section, paragraph, clause or any other portion of the Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgement shall not affect or impair the remainder of this Ordinance.

SECTION 5. This ordinance shall take effect upon its passage and publication according to law upon the filing of a certified copy thereof with the Monmouth County Planning Board.

Ordinance 26-08 was Adopted on the following vote: AYE: Lane, York, Acciani, Stroud, McMillan; NAY: none; ABSENT: None.

Ordinance 26-09 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-09. There were no comments.

Mayor McMillan closed the Public Hearing and called for a motion. Committeeman Lane made a motion to adopt Ordinance 26-09, seconded by Committeewoman York.

ORDINANCE 26-09

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY ESTABLISHING A NEW ZONING DISTRICT ENTITLED “AFFORDABLE HOUSING ZONE – 3 (AH-3) WITHIN THE TOWNSHIP OF NEPTUNE, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, Neptune Township’s Land Development Ordinance and Regulations include standards that control the location, scale, and type of land uses within the Township; and

WHEREAS, in accordance with section 40:55D-62 of the Municipal Land Use Law, the Neptune Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of the uses of the land and of buildings and structures thereon in order to protect the general health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, that the Land Development Ordinance of the Township of Neptune is hereby amended as follows:

SECTION 1. Section 300 Zoning Districts.

Affordable Housing Zone – 3 (AH-3)

SECTION 2. Section 406.04 Affordable Housing Zone – 3

A. Purpose.

The purpose of this AH-3 Zone is to allow for an age-restricted multifamily project that partially addresses the Township's affordable housing obligation by allowing a 100% affordable, non-inclusionary development of up to 70 residential units and accessory uses described herein. For the purposes of this zone, "age-restricted" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that at least 80% of the units are occupied by at least one person that is 55 years or older and complies with requirements of Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

B. Location: Block 1003, Lot 3

C. Permitted principal uses:

1. Up to 66 age-restricted multifamily apartments, which meet the criteria for Affordable Housing in conformance with the Township of Neptune Housing Element and Fair Share Plan.
2. One unrestricted-income, non-age restricted, management or maintenance staff apartment.

D. Permitted accessory uses.

Accessory uses may be provided but shall not be required as a condition of approval:

1. Parking areas and electric vehicle charging stations intended to serve the staff, residents, and guests.
2. Interior amenities, including, but not limited to, community room, wellness and health room(s), library, meeting rooms, lobbies, laundry areas, mail centers, fitness rooms, and other traditional ancillary spaces intended to serve the residents.
3. Interior accessory spaces, including, but not limited to, management and leasing offices, maintenance/utility areas, and other traditional ancillary spaces intended to serve the management and operations of the development.
4. Exterior amenities and recreational facilities and structures, including, but not limited to, open space, gathering space, bicycle parking, benches and walkways intended to serve the residents.
5. Patios, balconies, and porches intended to serve the residents.
6. Community garden, greenhouse, and garden shed intended to serve the residents.
7. Private and public utility structures, and maintenance structures including standby generators intended to serve the building.
8. Trash and recycling enclosures intended to serve the building.
9. Signage. Permitted signage shall be as follows:
 - a. Two ground signs and/or building-mounted signage shall be permitted such that the maximum sign area of any individual sign not exceed 50 square feet, ground sign shall be set back at least five feet from the front, side and rear property lines, and the sign not exceed a height of seven feet above grade. Such ground sign may be illuminated with ground lights that otherwise comply with the Township's lighting and glare ordinances. Building mounted signage may be backlit or otherwise illuminated in compliance with the Township's lighting and glare ordinances. Neon, and other direct-transmissive light signage is prohibited.
 - b. Nonilluminated on-site informational/directional signs, provided that each sign is limited to a window, facade or ground-mounted sign of not more than two square feet in area and not more than seven feet in height above grade.
 - c. Address signage in compliance with Township emergency services standards.
10. Fences and walls.

- a. If retaining walls or fences are proposed, no single wall or fence may exceed six feet in height.
- b. Retaining walls shall be constructed of durable masonry materials that complement the site design and building architecture.
- c. Fences may be wooded, metallic, or PVC.

11. Utility shed for equipment storage.

12. Temporary construction or leasing trailers.

13. Accessory uses customarily incidental to a permitted principal use as approved by the Township Zoning Officer, provided they are in conformance with all Township ordinances.

E. Bulk regulations.:

1. Density. The gross density of the overall tract shall be no more than 66 affordable units and one caretaker/management unit.

2. Impervious coverage. The maximum total impervious coverage shall not exceed 80% of the developable area of the tract.

3. Building coverage. The maximum total lot coverage by buildings shall be 50% of the total area of the tract.

4. Principal building length. The maximum principal building length for multifamily buildings shall be 225 feet. Where two walls intersect at an angle greater than 90°, the maximum building length shall be determined as the sum of both individual wall lengths.

5. Building height. Each multifamily building shall be a maximum of four stories and 55 feet as defined in §LDO-201 of the Township Ordinance. Chimneys, roof-mounted solar equipment, parapets, stair and/or elevator penthouses, and similar appurtenances shall be allowable in excess of the building height.

6. Bedroom distribution. Age-restricted multifamily units shall have either one or two bedrooms.

7. Accessory buildings shall be harmonious in color and style to the principal structure and shall be permitted as follows:

(a) Maximum area: 120 square feet.

(b) Maximum height: 16 feet.

8. Setbacks. Development in the zone shall be subject to the following minimum setback regulations:

(a) Minimum principal building setback from tract lines other than external roads: 10 feet.

(b) Minimum principal building setback from external roads: 10 feet.

(c) Minimum building setback of parking or vehicular traffic areas from tract lines other than external roads: 3 feet.

(d) Accessory buildings (other than required utility equipment, generator, etc.) shall not be permitted within the front yard area and shall have a minimum rear and side yard setback of 5 feet.

9. Minimum recreational facilities shall include 1,000 square feet of interior community room space.

F. Buffer and landscape areas. Development in the AHAR zone shall not be subject to buffer, landscaping and screening requirements of Article V, §LDO-503 of this chapter, and the following buffer, landscaping and screening standards shall apply:

1. Buffer location. No buffers shall be required to adjoining properties.
2. All mechanical equipment, trash enclosures, and related accessory structures shall be screened from public view to the extent practicable.
3. Development in the zone shall not be subject to landscaping and landscape design requirements of Article V, §LDO-509 of this chapter, and shall instead apply the following landscape standards. A landscaping plan prepared by a licensed landscape architect (LLA) licensed in the State of New Jersey. The plan shall be prepared with the following design principles in mind:
 - a. An overall recurring pattern of plant groupings and material shall be provided throughout the site, integrating the various elements of site design to create pleasing and identifiable site characteristics.
 - b. Landscaping shall include a plant palette consisting of deciduous and evergreen trees, shrubs, ground cover, perennials and annuals.
 - c. The use of native, salt-tolerant, deer-resistant material is encouraged. Monocultures of material will not be accepted.
 - d. Plant species variety shall be selected with consideration given to different colors, textures, shapes, blossoms and foliage and should provide a four-season interest.
 - e. Plant selection shall be based upon the premise to provide material that will best serve the intended function and use as well as to provide materials appropriate for local soil conditions, water conservation and the environment.
 - f. The type and amount of plant material shall be varied throughout the development.
 - g. All proposed material shall be drawn to scale to reflect a fifteen-year to twenty-year growth. Planting schedules showing common and botanical names, installed and mature sizes and horticultural interest shall be provided along with applicable installation notes and details.
 - h. Landscaping shall be provided as part of a site plan. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character.
 - i. All trees shall be guaranteed for a minimum of two years from the time of planting by the applicant against death and disease.
 - j. Planting specification. Deciduous trees shall be at least two inches caliper at planting and should be balled and burlapped. Size of evergreens should be four feet tall (except in required buffers) and shrubs two feet tall at planting but may be allowed to vary depending on setting and type of shrub. Only nursery-grown plant materials shall be acceptable, and trees, shrubs, and ground cover shall be planted according to accepted horticultural standards. Dead and dying plants shall be replaced during the following planting season.

G. Other regulations:

1. All new utilities shall be installed underground, where practicable.
2. All dwelling units shall be served by public water and sanitary sewer systems.
3. Garbage refuse storage and recyclable collection areas suitable for containerized collection shall be provided. Such areas shall be screened from view and shall otherwise comply with Article V, §LDO-515 of the Land Use and Development Regulations.

4. New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21 (RSIS) shall govern all design requirements for this AHAR zone, excluding parking, and shall take precedence over anything to the contrary contained in the Land Use and Development Regulations.

5. Parking.

a. A minimum of 0.5 space per unit is required.

b. Parking stalls shall be a minimum of 9 feet by 18 feet, including overhang areas. Handicapped parking stalls shall be provided in accordance with the Americans with Disabilities Act.

c. Parking spaces, ramps, etc., shall be provided for the physically handicapped, in accordance with the Americans with Disabilities Act.

d. Back-up areas with a minimum depth of five feet shall be provided in all parking lots where there are dead ends.

e. Electric Vehicle Parking shall be provided in accordance with NJ State Regulations.

H. Building design requirements.

Building design requirements in this AHAR zone shall not be subject to any other requirements of this Chapter and shall be replaced with the following requirements for this zone:

1. All buildings shall be located with proper consideration of their orientation and relationship to other buildings, both existing and proposed in terms of light, air and usable open space, access to public right-of-way and off-street parking; height and bulk; and drainage.

2. Elevators, vestibules and corridors of new buildings shall be designed so as to accommodate the gurneys used by the Township Emergency Services Department and the Township's volunteer first-aid squads.

3. Exterior appearance and treatment.

a. All major entrances to buildings shall be properly identified with architectural elements such as recessed entranceways, projected overhangs, and porticoes.

b. Window and door openings shall include appropriate trim and either recesses or overhangs to promote a harmonious variety of light and shade on the facade of the building.

c. Appurtenances, such as, but not limited to, tanks, condenser units and other equipment, shall be screened from view.

d. All roof planes or caps meeting the exterior facade shall have overhangs or appropriate cornice and trim details.

e. Colors, materials and finishes shall be coordinated in all exterior elevations of buildings to achieve continuity of expression.

f. Exterior materials shall include appropriate texture and trim to prevent large undifferentiated facades of the same material.

g. Buildings shall be designed to avoid long straight, unbroken, and uninterrupted lines.

4. Units design shall be exempt from requirements in §LDO-516.

- I. Lighting. Development in the AHAR zone shall not be subject to lighting requirements of Article V, §LDO-511 of this chapter and should, instead, apply the following lighting standards:
 1. All outdoor lighting shall be aimed, located, designed, fitted and maintained so as not to present a disabling glare hazard to drivers or a nuisance to neighboring properties.
 2. Shoebox-type lighting fixtures shall be used.
 3. Building-mounted directional fixtures, such as floodlights and spotlights, may be permitted, provided they do not present a disabling glare hazard to drivers or a nuisance to neighboring properties.
 4. Glare shall be controlled through the use of sharp cutoff fixtures, the appropriate application of mounting height, wattage, aiming, fixture placement, and fixture design, etc., and the addition of shields and baffles as necessary.
 5. LED lighting shall not exceed 3,500 degrees Kelvin.

- J. Affordable housing development. If any item below conflicts with §LDO Article XII, this section shall govern.
 1. Waiver of cost-generative measures pursuant to N.J.A.C. 5:93-10.1 et seq. In order to permit the intended, agreed upon development of the property, the Township agrees to abide by the COAH regulations against cost-generative measures as set forth at N.J.A.C. 5:93-10.1(b).
 2. Assistance With Fees and Charges. Municipal support shall include granting reasonable variances, waivers, and entitlements, to provide project cost reductions. Waived fees shall include administrative application fees, inspection fees, open space fees, water connection fees, sewer connection fees, building permit fees, recreation fees, soil or tree removal or tree clearing permit fees, street lighting and fire hydrant fees or rental registration fees. This waiver shall not apply to third party professional escrows. Waived fees may be paid from municipal affordable housing trust funds.
 3. Any development within the AHAR zone shall not be required to submit a tree survey, comply with any tree replacement requirements nor any payments in lieu of tree replacement requirements.
 4. Development in the AHAR zone shall be exempt from Chapter 27 and §4-30 of the Township Code.
 5. Any development within the AHAR zone shall be subject to the provisions of N.J.A.C. 5:93-10.1 and 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.
 6. Pursuant to N.J.A.C. 5:80-26.1 ("UHAC"), UHAC does not apply to units qualifying for the federal low-income housing tax credit under Section 42 of the Internal Revenue Code. However, the project shall comply with N.J.A.C. 5:80-26.16 Affirmative Marketing, as applicable.
 7. All affordable units shall be subject to deed restrictions on income limits for a period of not less than 30 years from the date that a certificate of occupancy issued for the building. If this project is financed with low-income housing tax credits, then the HMFA required deed restriction shall be provided.
 8. The N.J.A.C. 5:80-33, governs the income distribution requirements for affordable housing units created with low-income housing tax credits (LIHTC); otherwise, income distribution requirements are governed by UHAC.

SECTION 3. All Ordinances, or parts thereof, inconsistent with the provision of this Ordinance, and the same are hereby repealed to the extent of such inconsistency.

SECTION 4. Should any section, paragraph, clause or any other portion of the Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgement shall not affect or impair the remainder of this Ordinance.

SECTION 5. This ordinance shall take effect upon its passage and publication according to law upon the filing of a certified copy thereof with the Monmouth County Planning Board.

Ordinance 26-09 was Adopted on the following vote: AYE: Lane, York, Acciani, McMillan; NAY: none; ABSENT: None; ABSTAIN: Stroud

Ordinance 26-10 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-10. There were no comments.

Elizabeth Vitale, 614 3rd Ave Madison – Ms. Vitale stated there is a great need for affordable housing and she has seen members of her church move out of the area in search for affordable homes. Ms. Vitale stated she supports the ordinance.

Bishop Cedric Miller, Pastor Living Word Church – Bishop Miller stated there is a need for affordable housing in the community. Bishop Miller stated he supports the ordinance.

Mayor McMillan closed the Public Hearing and called for a motion. Committeewoman York made a motion to adopt Ordinance 26-10, seconded by Committeeman Lane.

ORDINANCE 26-10

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY ESTABLISHING A NEW ZONING DISTRICT ENTITLED “AFFORDABLE HOUSING ZONE – 4 (AH-4) WITHIN THE TOWNSHIP OF NEPTUNE, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, Neptune Township’s Land Development Ordinance and Regulations include standards that control the location, scale, and type of land uses within the Township; and

WHEREAS, in accordance with section 40:55D-62 of the Municipal Land Use Law, the Neptune Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of the uses of the land and of buildings and structures thereon in order to protect the general health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, that the Land Development Ordinance of the Township of Neptune is hereby amended as follows:

SECTION 1. Section 300 Zoning Districts.

Affordable Housing Zone – 4 (AH-4)

SECTION 2. Section 406.05 Affordable Housing Zone - 4

- A. Purpose. The purpose of the AH-4 Affordable Housing Mixed Use Overlay Zone is to permit multi-family residential development that includes an affordable housing component, house of worship, and optional commercial ground floor space, thereby advancing the Township’s efforts to meet its constitutionally mandated affordable housing obligations in accordance with applicable State law.
- B. Location: Block 1004, Lot 1
- C. Permitted Uses.
 - a. Multi-family dwellings with or without ground floor retail commercial (Maximum of 84 units of which 8 are low- and moderate-income units)
 - b. Ground floor commercial uses:
 1. Grocery (except convenience) stores.
 2. Convenience stores.
 3. Retail bakeries.
 4. Delicatessens.
 5. Butcher shops.
 6. Fish and seafood markets.

7. Fruit and vegetable markets.
8. Beer, wine and liquor stores.
9. Pharmacies and drug stores.
10. Cosmetics, beauty supplies and perfume store.
11. Food (health) supplement stores.
12. Health and personal care stores.
13. Family clothing and apparel stores.
14. Swimwear stores.
15. Jewelry stores.
16. Shoe stores.
17. Hobby, toy and game stores.
18. Arts and craft shops.
19. Family book stores.
20. Magazine/newspaper stands.
21. Florists/flower shops.
22. Gift shops.
23. Greeting card stores.
24. Commercial banking.
25. Savings institutions.
26. Bank.
27. Credit unions.
28. Offices of real estate agents.
29. Drinking places (alcoholic beverages).
30. Full-service restaurants.
31. Restaurant.
32. Restaurant, take-out.
33. Barber and beauty shops, beauty salons and parlors, hairdressers.
34. Cosmetic salons and cosmetology services.
35. Manicure salon or nail services.
36. Wig grooming service.
37. Diet and weight reducing centers.
38. Depilatory salons (hair removal).
39. Ear piercing services.
40. Body piercing services.
41. Electrologist's studio.
42. Electrolysis studio.
43. Massage parlor.
44. Scalp treatment.
45. Hair replacement.
46. Tanning salons.
47. Leather goods repair services.
48. Shoe repair and shoeshine parlors.
49. Locksmiths.

c. Places of Worship

D. Accessory permitted uses.

- a. Parking areas and electric vehicle charging stations.
- b. Interior amenities, including, but not limited to: community room, wellness and health room(s), library, meeting rooms, lobbies, laundry areas, mail centers, fitness rooms, and other traditional ancillary spaces intended to serve the residents.
- c. Utility rooms
- d. Indoor and outdoor recreational areas
- e. Bicycle storage facilities
- f. Patios, balconies, and porches intended to serve the residents.
- g. Mail rooms and package rooms
- h. Trash and recycling rooms and enclosures
- i. Storage and equipment sheds
- j. Stormwater management facilities, including but not limited to typical stormwater basins as well as underground recharge basins.
- k. Private and public utility structures, including standby generators intended to serve the residents.

- l. Signs in accordance with § LDO-416 SIGNS
 - m. Fences and walls
 - n. Temporary construction trailers
 - o. Accessory uses customarily incidental to a permitted principal use as approved by the Planning Board.
- E. Bulk Regulations. Development in the AH-4 Affordable Housing Mixed Use Overlay Zone shall be subject to the following bulk regulations:
- a. Minimum total tract area: 3 acres
 - i. Minimum lot area for multi-family with to without ground floor retail commercial: 2 acres
 - ii. Maximum lot area for Place of Worship: 1 acre
 - b. Minimum lot width: 100 FT
 - c. Minimum lot frontage: 100 FT
 - d. Minimum lot depth: 100 FT
 - e. Parking shall not be in Route 35 front yard area.
 - f. Maximum front yard setback from Route 35: 20 feet.
 - g. Maximum front yard setback from Heck: 20 feet.
 - h. Minimum building setback from residential lot line: 40 feet.
 - i. Maximum percent building coverage: 50%.
 - j. Maximum impervious coverage: 80%.
 - k. Maximum Building Height: 42 feet.
 - l. Maximum Density for total tract (dwelling units per acre): 28 DU/AC
 - m. Maximum Floor Area Ratio: 1.50
- F. Development in the AH-4 Affordable Housing Mixed Use Overlay Zone shall be consistent with NJ Residential Site Improvement Standards found within N.J.A.C. 5:21.
- G. Architectural Design Standards. Development in the AH-4 Affordable Housing Mixed Use Overlay Zone shall be consistent with the applicable Architectural and Design Standards found within § LDO-502.
- H. Buffering and Screening. Buffering and screening in the AH-4 Affordable Housing Mixed Use Overlay Zone shall be consistent with the applicable Buffering and Screening requirements found within § LDO-503, unless otherwise expressly permitted by the board.
- I. Landscaping. Landscaping within the AH-4 Affordable Housing Mixed Use Overlay Zone shall comply with the applicable standards set forth in § LDO-509 of the Land Development Ordinance, except as expressly modified herein or as may be otherwise permitted by the reviewing board. Notwithstanding the foregoing, the provisions of § LDO-509.I.4 shall not apply within the AH-4 Affordable Housing Mixed Use Overlay Zone; specifically, parking lots shall be exempt from the requirement that a minimum of five percent (5%) of the interior area of the lot be provided with planting islands.

SECTION 3. All Ordinances, or parts thereof, inconsistent with the provision of this Ordinance, and the same are hereby repealed to the extent of such inconsistency.

SECTION 4. Should any section, paragraph, clause or any other portion of the Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgement shall not affect or impair the remainder of this Ordinance.

SECTION 5. This ordinance shall take effect upon its passage and publication according to law upon the filing of a certified copy thereof with the Monmouth County Planning Board.

Ordinance 26-10 was Adopted on the following vote: AYE: Lane, York, Acciani, Stroud, McMillan; NAY: none; ABSENT: None.

Ordinance 26-11 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-11. There were no comments.

Mayor McMillan closed the Public Hearing and called for a motion. Committeeman Lane made a motion to adopt Ordinance 26-11, seconded by Committeewoman York.

ORDINANCE 26-11

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY ESTABLISHING A NEW ZONING DISTRICT ENTITLED “AFFORDABLE HOUSING ZONE – 1 (AH-1) WITHIN THE TOWNSHIP OF NEPTUNE, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, Neptune Township’s Land Development Ordinance and Regulations include standards that control the location, scale, and type of land uses within the Township; and

WHEREAS, in accordance with section 40:55D-62 of the Municipal Land Use Law, the Neptune Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of the uses of the land and of buildings and structures thereon in order to protect the general health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of Neptune, County of Monmouth, that the Land Development Ordinance of the Township of Neptune is hereby amended as follows:

SECTION 1. Section 300 Zoning Districts.

Affordable Housing Zone – 1 (AH-1)

SECTION 2. Section 406.02 Affordable Housing Zone - 1

A. Permitted Uses.

- a. Multi-family dwellings (maximum of 42 units 8 available to low- and moderate-income households);
- b. Office

B. Location: Block 254, Lot 1

C. Accessory permitted uses.

- a. Parking areas and electric vehicle charging stations.
- b. Interior amenities, including, but not limited to: community room, wellness and health room(s), library, meeting rooms, lobbies, laundry areas, mail centers, fitness rooms, and other traditional ancillary spaces intended to serve the residents.
- c. Utility rooms
- d. Indoor and outdoor recreational areas
- e. Bicycle storage facilities
- f. Patios, balconies, rooftop amenities, and porches intended to serve the residents.
- g. Mail rooms and package rooms
- h. Trash and recycling rooms and enclosures
- i. Storage and equipment sheds
- j. Stormwater management facilities, including but not limited to typical stormwater basins as well as underground recharge basins.
- k. Private and public utility structures, including standby generators intended to serve the residents.
- l. Signage in accordance with § LDO-416 SIGNS
- m. Fences and walls
- n. Temporary construction trailers
- o. Accessory uses customarily incidental to a permitted principal use as approved by the Planning Board.

- D. Bulk Regulations. Development in the Affordable Housing Zone -1 shall be subject to the following bulk regulations for the Office Development :
- a. Minimum lot area: 90,000 SF
 - b. Minimum lot width: 200 FT
 - c. Minimum lot frontage: 200 FT along Neptune Boulevard
Minimum lot frontage: 195 FT along Bangs Avenue
 - d. Minimum front yard setback: 20 FT
 - e. Minimum side yard setback: 20 FT
 - f. Minimum side yard setback – residential – 20 FT
 - g. Minimum rear yard setback: 75 FT
 - h. Maximum building coverage: 16% *
 - i. Maximum lot coverage: 73%
Maximum number of stories: 3 stories; 40 feet
- E. Bulk Regulations. Development in the Affordable Housing Zone – 1 shall be subject to the following bulk regulations for the Multi-Family Development :
- a. Minimum lot area: 60,000 SF
 - b. Minimum lot width: 130 FT
 - c. Minimum lot frontage: 130 FT
 - d. Minimum front yard setback: 20 FT
 - e. Minimum side yard setback: 20 FT
 - f. Minimum rear yard setback: 10 FT
 - g. Maximum building coverage: 25% *
 - h. Maximum lot coverage: 75%
 - i. Maximum number of stories: 3 stories; 40 feet
- F. Off street parking shall be 1 space per 300 square feet for the office development and 1.8 parking spaces/unit.
- G. Architectural Design Standards. Development in the zone shall be consistent with the applicable Architectural and Design Standards found within § LDO-502, except that ground floor parking level walls may be straight and shall not be required to be articulated or stepped. Upper levels of the buildings shall comply.
- H. Buffering and Screening. Buffering and screening in the Zone shall be consistent with the applicable Buffering and Screening requirements found within § LDO-503, unless otherwise expressly permitted by the board.
- I. Landscaping. Landscaping within the zone shall be consistent with the applicable landscaping requirements found within § LDO-509 unless otherwise expressly permitted by the board.

SECTION 3. All Ordinances, or parts thereof, inconsistent with the provision of this Ordinance, and the same are hereby repealed to the extent of such inconsistency.

SECTION 4. Should any section, paragraph, clause or any other portion of the Ordinance be adjusted by a Court of competent jurisdiction to be invalid, such judgement shall not affect or impair the remainder of this Ordinance.

SECTION 5. This ordinance shall take effect upon its passage and publication according to law upon the filing of a certified copy thereof with the Monmouth County Planning Board.

Ordinance 26-11 was Adopted on the following vote: AYE: Lane, York, Acciani, Stroud, McMillan; NAY: none; ABSENT: None.

Ordinance 26-12 – Mayor McMillan opened the floor for Public Hearing on Ordinance 26-12. There were no comments.

Mayor McMillan closed the Public Hearing and called for a motion. Committeewoman York made a motion to adopt Ordinance 26-12, seconded by Committeeman Lane.

ORDINANCE 26-12
AN ORDINANCE TO REPEAL AND REPLACE LDO-1001 TO LDO-1001.9 OF ARTICLE X (FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS) AND ARTICLE XII (AFFORDABLE HOUSING) OF THE LAND DEVELOPMENT ORDINANCES OF THE TOWNSHIP OF NEPTUNE AND TO REPEAL AND REPLACE LDO 1201 TO LDO 1219 TO ADDRESS THE REQUIREMENTS OF THE FAIR SHARE HOUSING ACT (FHA), AS AMENDED, AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), AS AMENDED, REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, on March 20, 2024 Governor Murphy signed into law Bill A4/S50 (P.L., 2024, c.2), which legislation amended the Fair Housing Act, and required each municipality to provide its fair share of affordable housing obligation for the Fourth Round from July 1, 2025 to June 30, 2035 under the Mount Laurel Doctrine based on a new process and updated methodology; and

WHEREAS, the new law established the Affordable Housing Dispute Resolution Program (the “Program”), with retired judges to resolve cases regarding the Fair Housing Act; and

WHEREAS, the Township of Neptune having adopted a resolution of participation in the Affordable Housing Dispute Program and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et seq. (the “Fair Housing Act”) for the Fourth Round, which was filed with the program on January 31, 2025; and

WHEREAS, the Township of Neptune entered into a Consent Order for Conditional Compliance Certification, filed on March 17, 2025, with the Fair Share Housing Center, which Order was signed by the Superior Court of New Jersey on April 16, 2025 in order to carry out Neptune’s affordable housing obligations, whereby the Revised Ordinance of the Township of Neptune is to be amended to include provisions addressing the Township’s constitutional obligations to provide for its fair share of 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 by N.J.A.C. 5:80-26.1, as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that low- and moderate-income households shall occupy those units; and

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, the Planning Board of the Township of Neptune has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D, et seq.; and

WHEREAS, the Housing Element and Fair Share Plan have been endorsed by the governing body; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed 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. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented.

NOW, THEREFORE, BE IT ORDAINED by the Committee of the Township of Neptune as Follows:

Section 1. LDO-1001.01 to LDO-1001.09 in Article X (Fees, Guarantees, Inspections and Off-Tract Improvements) of the Land Development Ordinance of the Township of Neptune is hereby repealed and replaced as follows:

§ LDO-1001.01. Purpose

- ~~A. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.~~
- ~~B. Pursuant to P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH approved spending plan may retain fees collected from non-residential development.~~
- ~~C. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.~~
- A. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

§ LDO-1001.02. Basic Requirements.

- ~~A. This section shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.~~
- ~~B. Neptune Township shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.~~
- A. The Township of Neptune previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- B. The Township of Neptune shall not spend any development fees until the court has approved a plan for spending such fees.

§ LDO-1001.03. Definitions.

The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

~~A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.~~

COAH or THE COUNCIL

~~The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.~~

DEVELOPER

~~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 FEE

~~Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.~~

EQUALIZED ASSESSED VALUE

~~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 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).~~

Definitions shall be consistent with those in Article XII (Affordable Housing) § LDO-1201

§ LDO-1001.04. Residential and Non-Residential Development Fees.

A. Residential Development Fees Imposed Fees.

1. [Moved from A] Imposed Fees.

- a. ~~[Moved from A.1] Within the all zoning districts, residential developers, except for developers of the types of development specifically exempted below,~~ Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee up to 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.
- b. ~~[Moved from A.2] When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d variance") has been permitted, developers may be required to pay a development fee of up to 6% of the equalized assessed value for each additional unit that may be realized. However, 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 up to 1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to 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. [Moved from B] Eligible exactions, ineligible exactions and exemptions for residential development.

- a. 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 an agreement with the Township of Neptune and it approved by the Township prior to the statutory elimination of payments in-lieu on March 20, 2024, per P.L. 2024, c.1, shall be exempt from development fees.
- b. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from payment of development fees, unless the developer seeks a substantial change in the approval. When 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.

A "substantial change" is a revision to an approved preliminary or final site plan or subdivision which meets any one of the following limitations:*

- (1) **[Moved from B.2.a]** Five feet of improvements into any yard setback;
- (2) **[Moved from B.2.b]** Seven feet in building height;
- (3) **[Moved from B.2.c]** One percent in floor area ratio;
- (4) **[Moved from B.2.d]** One percent in impervious coverage;
- (5) **[Moved from B.2.e]** Five feet in building spacing or location;

- (6) [Moved from B.2.f] Three parking spaces;
- (7) [Moved from B.2.g] Five feet in driveway locations;
- (8) [Moved from B.2.h] One percent in site disturbances;
- (9) [Moved from B.2.i] Five feet in lot line locations;
- (10) [Moved from B.2.j] Any change in residential density;
- (11) [Moved from B.2.k] Any new variances pursuant to N.J.S.A. 40-55D-70c or d;
- (12) [Moved from B.2.l] Any such change encumbered above shall not alter the percentage of low/moderate income housing in an approved project, if applicable.

* A substitution of similar landscaping material, lighting fixtures and signage is not a substantial change as long as there is no change in approved quantities or dimensions.

Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- c. [Moved from B.3] Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4. ~~Single family structures new or renovated that result in no additional residential structures;~~

- d. Public government agencies and schools, which are classified by the Tax Assessor as exempt from payment of property taxes (Property Classes 15A and 15C), shall be exempt from paying development fees.

B. Non-Residential Development Fees

1. Imposition of fees

- a. 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.
- b. 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.
- c. 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

- a. 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.
- b. 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.

§ LDO-1001.04. Collection Procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
- D. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- E. **[Moved from B]** The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. **[Moved from C]** Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with ~~of~~ the development; calculate the development fee; and, thereafter, notify the developer of the amount of the fee.
- G. **[Moved from D]** Should Neptune Township 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).

The development fee shall be collected at the issuance of the certificate of occupancy.

- H. Appeal of development fees.
 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Neptune Township. 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, N.J.S.A. 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 Neptune Township. 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, N.J.S.A. 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.

§ LDO-1001.06. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
1. Payments in lieu of on-site construction of affordable units; where previously permitted by ordinance or agreement with the Township of Neptune and if approved by the Township prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L. 2024, c.2;
 2. Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached unit development accessible;
 3. Rental income from municipally operated units;
 4. Repayments from affordable housing program loans;
 5. Recapture funds;
 6. Proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with Neptune Township's affordable housing program.
- C. ~~Within seven days from the opening of the trust fund account,~~ Neptune Township shall provide ~~COAH~~ the Division with written authorization, in the form of a three-party escrow agreement between the municipality, the financial institution bank, and ~~the Division~~ COAH to permit the Division ~~COAH~~ to direct the disbursement of the funds as provided for in N.J.A.C. ~~5:97-8.13(b)-5:99.21~~ et seq.
- D. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
1. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 2. 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;
 3. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 4. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 5. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 6. Revocation of compliance certification or a judgment of compliance and repose;
 7. 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;
 8. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- E. **[Moved from D]** All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court. ~~COAH~~

§ LDO-1001.07. Use of Funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the Superior Court~~COAH~~. Funds deposited in the housing trust fund may be used for any activity approved by the Court~~COAH~~ to address ~~the~~ Neptune Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, housing rehabilitation, new construction of affordable housing units and related costs, accessory apartment, a market to affordable program, or regional housing partnership programs, conversion of existing nonresidential 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, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan, or as permitted by the Superior Court.
- B. Funds shall not be expended to reimburse Neptune Township for past housing activities prior to the authorization to collect development fees.
- C. At least a portion 30% 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 One-third of the ~~affordability assistance portion~~ of development fees collected shall be used to provide affordability assistance to those very low-income households earning 30% or less of median income by region.
1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, 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.
 2. Affordability assistance to very low income households earning 30% or less of median income 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.
 3. ~~Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.~~
- D. ~~Neptune Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.~~
- D. [Moved from E] No more than 20% of all affordable housing trust funds, exclusive of those collected to fund RCA prior to July 17, 2008, ~~revenues collected from development fees~~ may shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, and for compliance with the Superior Court and the Program including the costs to the Township of Neptune of resolving a challeng. and/or an affirmative marketing program. ~~In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such on administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.~~

§ LDO-1001.08. Monitoring.

- A. ~~Neptune Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Neptune Township's housing program, as well as to the expenditure of~~

~~revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.~~

- A. On or before February 15 of each year, the Township of Neptune 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.

§ LDO-1001.09. Ongoing Collection of Fees.

- ~~A. The ability for Neptune Township to impose, collect and expend development fees shall continue so long as the Township retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it. expire with its substantive certification unless Neptune Township has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance.~~
- ~~B. [Moved from A] If Neptune Township fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal 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 (N.J.S.A. 52:27D-320). Neptune Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Neptune Township retroactively impose a development fee on such a development. Neptune Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.~~

Section 2. This section seeks to add a new section to Article X as LDO-1001.10.

[New Section] § LDO-1001.10. Emergent Affordable Housing Opportunities

- A. 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. LDO-1201 to LDO-1219 in Article XII (Affordable Housing) of the Land Development Ordinance of the Township of Neptune is hereby repealed and replaced as follows:

§ LDO-1201. FAIR SHARE/AFFORDABLE HOUSING.

This ordinance added a fair share/affordable housing Section LDO-1201 in accordance with the provisions of the Council on Affordable Housing.

- ~~A. Purpose. This section of the Township of Neptune Code sets forth regulations regarding low and moderate income housing units in the Township of Neptune that are consistent with the provisions of N.J.A.C. 5:93 et seq. as effective on June 6, 1994. These rules are pursuant to the Fair Housing Act of 1985 and the Township of Neptune's constitutional obligation to provide for its fair share of low and moderate income housing.~~

- A. Introduction and Applicability

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

B. Definitions

As used herein the following terms shall have the following meanings:

“Accessory apartments” means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed preexisting primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as “accessory dwelling units”.

“Act” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Adaptable” means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

“Administrative agent” means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

“Affirmative Marketing Plan” means the municipally adopted plan of strategies from which the administrative agent will choose to implement as part of the Affirmative Marketing requirements.

“Affirmative Marketing Process” or “Program” means the actual undertaking of Affirmative Marketing activities in furtherance of each project with very low- low- and moderate-income units.

“Affordability assistance” means the use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner’s association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

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

“Affordable” means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

“Affordable housing development” means a development included in a municipality’s housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

“Affordable Housing Dispute Resolution Program” or “the Program” refers to the dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

“Affordable Housing Monitoring System” or “AHMS” means the Department’s cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

“Affordable Housing Trust Fund” or “AHTF” means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the “Neighborhood Preservation Nonlapsing Revolving Fund” and “Balanced Housing” mean the AHTF.

“Affordable unit” means a housing unit proposed or developed pursuant to the Act, including units created with municipal affordable housing trust funds.

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

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L.1983, c. 530 (C.55:14K-1 et seq.).

“Assisted living residence” means a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

“Barrier-free escrow” means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

“Builder’s remedy” means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

“Certified household” means a household that has been certified by an administrative agent as a very-low-income household, a low-income household, or a moderate-income household.

“CHOICE” means the no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

“COAH” or the “Council” means the Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

“Construction” means new construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217(N.J.S.A. 52:27D-119 et seq.).

“County-level housing judge” means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal Fair Share plans and housing elements with the Act.

“DCA” and “Department” mean the State of New Jersey Department of Community Affairs.

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

“Department” means the New Jersey Department of Community Affairs.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

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

“Development fee” means money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

“Dispute Resolution Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

“Division” means the Division of Local Planning Services within the Department of Community Affairs.

“Emergent opportunity” means a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

“Equalized assessed value” or “EAV” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

“Equity share amount” means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

“Exit sale” means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

“Exclusionary zoning litigation” means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder’s remedy.

“Extension of expiring controls” means extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

“Fair share obligation” means the total of the present need and prospective need, including prior rounds, as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

“Fair share plan” means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Green Building Strategies” means the strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

“HMFA” or “the Agency” means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

“Household income” means a household’s gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

“Housing element” means the portion of a municipality’s master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

“Housing region” means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

“Inclusionary development” means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

“Judgment of compliance” or “judgment for repose” means a determination issued by the Superior Court approving a municipality’s fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

“Low-income household” means a household with a household income equal to 50 percent or less of the regional median income.

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

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

“Mixed use development” means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1)there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities maybe considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

“Moderate-income household” means a household with a household income in excess of 50 percent but less than 80 percent of the regional median income.

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

“MONI” means the no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

“Municipal housing liaison” or “MHL” means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

“Municipal affordable housing trust fund” means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

“Municipal development fee ordinance” means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

“New construction” means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

“New Jersey Affordable Housing Trust Fund” means an account established pursuant to N.J.S.A. 52:27D-320.

“New Jersey Housing Resource Center” or “Housing Resource Center” means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

“95/5 restriction” means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

“Non-exempt sale” means any sale or transfer of ownership of a restricted unit to one’s self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary; and the transfer of ownership by court order.

“Nonprofit” means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

“Non-residential development” means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

“Non-residential development fee” means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

“Order for repose” means the protection a municipality has from a builder’s remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

“Payment in lieu of constructing affordable units” means the prior approval of the payment of funds to the municipality by a developer when affordable units 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.

“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).

"Qualified Urban Aid Municipality" means a municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Supportive housing household” means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant’s self-identification of household members on the affordable housing application.

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

“Supportive housing unit” means a restricted rental unit, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. Supportive housing units are also referred to as permanent supportive housing units.

“Transitional housing” means temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; (2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the department; and (4) allows households to remain for a minimum of six months.

“Treasurer” means the Treasurer of the State of New Jersey.

“UHAC” means the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

“UHORP” means the Agency’s Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

“Unit type” means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2

units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

“Very-low-income household” means a household with a household income less than or equal to 30 percent of the regional median income.

“Very-low-income housing” means housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

“Veteran” means a veteran as defined at N.J.S.A. 54:4-8.10.

“Veterans’ preference” means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

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

~~C. [Moved from B and deleted as duplicative]—Township of Neptune’s fair share obligation will be divided equally between low and moderate income households as per N.J.A.C. 5:93-2.20.~~

~~D.—[Deleted as duplicative of parts in Fair Share Program]—Except for inclusionary developments constructed pursuant to low income tax credit regulations:~~

- ~~1.—At least half of all units within each inclusionary development will be affordable to low-income households; and~~
- ~~2.—At least half of all rental units will be affordable to low income households; and~~
- ~~3.—At least one-third of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.~~

~~D.—[Deleted as duplicative of parts in Fair Share Program and sales]—Inclusionary developments that are not age restricted will be constructed in conjunction with realistic market demands so that:~~

- ~~1.—The combination of efficiency and one bedroom units is at least 10% and no greater than 20% of the total low and moderate income units; and~~
- ~~2.—At least 30% of all low and moderate income units are two bedroom units; and~~
- ~~3.—At least 20% of all low and moderate income units are three bedroom units; and~~
- ~~4.—Low and moderate income units that are age restricted may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of age restricted low and moderate income units within the inclusionary development.~~

~~E. [Deleted as duplicative of parts in Sales and rent]—In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:~~

- ~~1.—Efficiency units will be affordable to a one-person household; and~~
- ~~2.—One bedroom units will be affordable to one and one half person households; and~~
- ~~3.—Two bedroom units will be affordable to three person households; and~~
- ~~4.—Three bedroom units will be affordable to four and one half person households; and~~
- ~~5.—Median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b); and~~
- ~~6.—The maximum sales prices of low and moderate income units within each inclusionary development will be affordable to households earning no more than 70% of median income. In averaging an affordability range of 55% for sales units, the municipal ordinance will require~~

~~moderate income sales units to be available for at least three different prices and low income sales units to be available for at least two different prices.~~

~~7. For both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development; and~~

~~8. Low income units will be reserved for households with a gross household income less or equal to 50% of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than 80% of the median income approved by COAH as per N.J.A.C. 5:93-7.4(g); and~~

~~9. The regulations outlined in N.J.A.C. 5:93-9.15 and 5:93-9.16 will be applicable for purchased and rental units.~~

C. Monitoring and Reporting Requirements

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

(a) The municipality shall provide electronic monitoring data with the Department pursuant to P.L. 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department's website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.

(b) On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.

(c) On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

~~For rental units, developers and/or municipal sponsors may:~~

~~1. Establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution; and~~

~~2. Gross rents, including an allowance for tenant paid utilities, will be established so as not to exceed 30% of the gross monthly income of the appropriate household size as per N.J.A.C. 5:93-7.4(f). The tenant paid utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.~~

~~3. The maximum rents of low and moderate income units within each inclusionary development will be affordable to households earning no more than 60% of median income. In averaging an affordability range of 52% for rental units, developers and/or municipal sponsors of rental units may establish one rent for a low income unit and one rent for a moderate income unit for each bedroom distribution.~~

G. ~~[Deleted as duplicative of parts in Sales Section] For sale units:~~

~~1. The initial price of a low and moderate income owner-occupied for sale housing unit will be established so that after a downpayment of 5%, the monthly principal, interest, homeowner and private mortgage insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed 28% of the eligible gross monthly income; and~~

~~2. Master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers so that low and moderate income purchasers shall pay 50% of those fees and special assessments paid by market purchasers. This 50% percentage is consistent with the requirements of N.J.A.C. 5:93-7.4(e). Once established within the master deed, the 50% percentage will not be amended without prior approval from COAH; and~~

- ~~3. Township of Neptune will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and~~
- ~~4. The Township of Neptune will require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c); and~~
- ~~5. Municipal, state, nonprofit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5 to 5:93-9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9; and~~
- ~~6. The continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and~~
- ~~7. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and~~
- ~~8. The regulations detailed in N.J.A.C. 5:93-9.12 to 5:93-9.14 will be applicable to low and moderate income units that are for sale units.~~

H. ~~[Deleted as Duplicative of New Construction Section]~~ In zoning for inclusionary developments the following is required:

- ~~1. Low and moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d):~~

Minimum Percent Low/Moderate Income Units Completed	Percent of Market Housing Units Completed
0	25
10	25 plus one unit
50	50
75	75
100	90
	100

- ~~2. A design of inclusionary developments that integrates low and moderate income units with market units is encouraged as per N.J.A.C. 5:93-5.6(f).~~

I. ~~Development Fee Ordinance.~~ A development fee ordinance was approved by COAH on April 6, 2004, and adopted by the Township of Neptune Committee on June 14, 2004 (by Ord. No. 04-22).

J. ~~Controls on Affordability and Length of Controls.~~ To provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, the Township of Neptune will designate the Township Administrator with the responsibility of ensuring the affordability of sales and rental units over time:

- ~~1. The Township Administrator will be responsible for those activities detailed in N.J.A.C 5:93-9.1(a); and~~
- ~~2. In addition, the Township Administrator will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low and moderate income units; and~~
- ~~3. Regarding newly constructed low and moderate income sales units:

 - ~~(a) Newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least 10 years pursuant to N.J.A.C. 5:93-9.2(b); and~~
 - ~~(b) The Township Administrator will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred as Technical Appendix E as found in N.J.A.C. 5:93; and~~
 - ~~(c) Housing units created through the conversion of a nonresidential structure will be considered a new housing unit and will be subject to a minimum ten year control on affordability pursuant to N.J.A.C. 5:93-9.2(b). The Township Administrator will require COAH's appropriate deed restriction and mortgage lien.~~~~

~~4. Regarding rehabilitated units:~~

- ~~(a) Rehabilitated owner-occupied single-family housing units that are improved to code standard will be subject to affordability controls for at least six years, except that this minimum duration of affordability control shall be increased in accordance with the minimum required duration specified in future rounds/cycles of COAH's rules, if applicable; and~~
- ~~(b) Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least 10 years; and~~
- ~~(c) The Township Administrator will require COAH's appropriate deed restriction and mortgage lien.~~

~~5. Regarding newly constructed and/or gut rehabilitated rental units:~~

- ~~(a) Newly constructed and/or gut rehabilitated low- and moderate-income rental units will remain affordable to low- and moderate-income households for at least 10 years pursuant to N.J.A.C. 5:93-9.2(e). The Township Administrator will require the deed restriction and lien and deed of easement referred as Technical Appendix H as found in N.J.A.C. 5:93; and~~
- ~~(b) Affordability controls in accessory apartments will be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability will extend for 30 years (N.J.A.C. 5:93-5.9); and~~
- ~~(c) Alternative living arrangements will be controlled in a manner suitable to COAH, that provides assurances that such a facility will house low- and moderate-income households for at least 10 years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability will extend for 30 years (N.J.A.C. 5:93-5.8).~~

K. Section 14(b) of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., incorporates the need to eliminate unnecessary cost generating features from the Township of Neptune's land use ordinances. Accordingly the Township of Neptune will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on certain affordable housing developments. The Township of Neptune will adhere to the components of N.J.A.C. 5:93-10.1 to 5:93-10.3.

~~L. [Deleted as irrelevant to this round] Applicability. The Township of Neptune has a fair share obligation of 23 units, of which zero units are new construction. This section shall apply to:~~

- ~~1. The Township of Neptune's rehabilitation program, the purpose of which is to rehabilitate substandard housing units occupied by low- and moderate-income households;~~
- ~~2. Any and all developments that contain proposed low- and moderate-income units; and~~
- ~~3. Any public lands, with or without improvements, determined to be no longer needed for municipal purposes pursuant to N.J.S.A. 40A:12-21, which permits private sales to certain organizations for a nominal consideration, when such land will be conveyed from The Township of Neptune to:
 - ~~(a) Any duly incorporated nonprofit organization for the purpose of building or rehabilitating residential property for resale pursuant N.J.S.A. 40A:12-21(j); or~~
 - ~~(b) Any duly incorporated nonprofit housing corporation or any limited dividend housing corporation or housing association organized pursuant to P.L. 1949, c. 184 (N.J.S.A. 55:16-1 et seq.), for the purpose of constructing housing for low- or moderate-income persons or families or handicapped persons pursuant to N.J.S.A. 40A:12-21(l).~~~~

M. Regional Income Limits

- 1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
- 2. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The

procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.

3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

§ LDO-1202. FAIR SHARE PLAN.

This ordinance enacted the Township's ~~Fourth~~ Third Round Housing Plan Element and Fair Share Plan consistent with the terms of the settlement agreement with the Fair Share Housing Center regarding compliance with the Township's ~~Fourth~~ Third Round Affordable Housing Obligations. This ordinance added LDO-1202 through LDO-1219.

- A. Sections LDO-1202 through LDO-1219 are intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. Sections LDO-1202 through LDO-1219 shall apply except where inconsistent with applicable law.
- B. The Township of Neptune Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes the ways Neptune Township shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Township and Fair Share Housing Center (FSHC).
- C. Sections LDO-1202 through LDO-1219 implement the Township's Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement.
- D. The Township of Neptune shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at Town Hall located on 25 Neptune Boulevard, Neptune, New Jersey 07754.

§ LDO-1203. AFFORDABLE HOUSING PROGRAMS. [Added 12-21-2017 by Ord. No. 17-46]

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 Township of Neptune will use the following mechanisms to satisfy its affordable housing obligations which exist as provisions of the COAH regulations under N.J.A.C. 5:93 or 5:97 or that have been upheld by the New Jersey Supreme Court:

- A. A Rehabilitation program.
 1. ~~The Township of Neptune and Fair Share Housing Center have agreed upon a rehabilitation program of 100 units. The Township will continue to implement its Paint and Rehab program to meet this 100 unit rehabilitation obligation. This is a community based program that has been successfully rehabilitating dwelling units within the Township that are occupied by 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~~ 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.

Both ownership and rental units shall be eligible for rehabilitation funds.

2. All rehabilitated rentals units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). ~~Owner-occupied units shall remain affordable to low and moderate income households for a period of six years.~~ For owner-occupied units, the control period ~~shall~~ will be enforced with a mortgage and notelien and for renter occupied units the control period will be enforced with a deed restriction.

3. The Township shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program reflecting the minimum hard cost of rehabilitation for each unit and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
4. The Township of Neptune shall designate, subject to the approval of the Department Court, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L. 2024, Chapter 2. COAH and UHAC regulations. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office of the Administrative Agent. on the municipal affordable housing web page.
5. Households determined to be very low-, low-, or moderate-income pay participate in a rehabilitation program. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and UHAC the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:

(a) If a unit is vacant at the time of rehabilitation, upon initial rental subsequent to rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, renter occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.

(b) If a unit is renter-occupied by a tenant at the time rehabilitation is completed, upon completion of the rehabilitation, the maximum rate of the rent charged after rehabilitation shall not exceed be the lesser of the tenant's current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.

(c) Rents in rehabilitated units may increase annually based on the standards in UHAC. N.J.A.C. 5:93-9.

(d) At the time of application, Applicant and/or tenant applicant households and/or tenant households shall be certified as subject to income-eligible determinations in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

B. 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:

(a) 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.

(b) 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;

(c) The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.

(d) If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.

(e) The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.

(f) The deed restriction for the extended control period shall be filed with the County Clerk.

C. 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:
 - (a) Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - (b) The deed restriction may be on the facility, rather than individual apartments or rooms;
 - (c) 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.

D. 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:
 - (a) Units are 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).
 - (b) Units 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.
 - (c) 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.
 - (d) Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - (e) Occupancy shall not be restricted to youth under 18 years of age.
 - (f) 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.
 - (g) The bedrooms and/or units shall comply with UHAC with the following exceptions:

- i. 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;
 - ii. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- (h) 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.
- (i) 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.
- (j) The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
- i. An Affirmative Marketing Plan in accordance this Ordinance; and
 - ii. 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.
- (k) The sponsor/owner shall complete annual monitoring as directed by the MHL.

§ LDO-1204. NEW CONSTRUCTION.

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units. This section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

- 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:

<u>Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy</u>	<u>Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy</u>
<u>25+1</u>	<u>10</u>
<u>50</u>	<u>50</u>
<u>75</u>	<u>75</u>
<u>90</u>	<u>100</u>

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

- 1. Design of 100 percent affordable developments:

- (a) 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.
 - (b) Each bedroom in each restricted unit must have at least one window.
 - (c) 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.
- (a) 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.
 - (b) 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.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) Each bedroom in each restricted unit must have at least one window.
 - (g) Restricted units must be of the same unit type as market-rate units within the same building.
 - (h) 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:
- (a) 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.
 - (b) 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.
 - (c) 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.

- (d) 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.
- (e) 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).
- (f) 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.
- (g) Each bedroom in each restricted unit must have at least one window; and
- (h) Restricted units must include adequate air conditioning and heating.

D. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- 1. The fair share obligation 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 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. If there is only one affordable unit it must be a low income unit.
- 3. ~~Thirteen percent of all affordable units shall be designated as very low income households at 30% of the median income, with at least 50% of all very low income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of a very low income unit shall be deposited into the Township's Affordable Housing Trust Fund based on the difference in cost between providing a very low income unit and the region's affordability average. Inclusionary developments of 10 or more total units shall be required to provide a minimum of one very low income unit. Very low income units shall be considered low income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.~~

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 developments that are not age-restricted or supportive housing shall be structured ~~in conjunction with realistic market demands~~ such that:
 - (a) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - (b) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units.
 - (c) **[Moved from A]** The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total low- and moderate-income units;
 - (d) **[Moved from B]** At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units;
 - (e) **[Moved from C]** At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units; ~~and § LDO-~~
 - (f) 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.

E. 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 dwellings shall be required to be constructed to conform with the technical design standards of a 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. ~~The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.~~
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. ~~All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:~~
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel however an interior accessible route of travel shall not be required between stories on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) 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; and
 - (f) If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
 - (g) An accessible entranceway as set forth at 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 Township of Neptune has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (i) 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.
 - (ii) To this end, the builder of restricted units shall deposit funds within the Township's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (iii) The funds deposited under Paragraph E.2(g)(ii) above shall be used by the Township of Neptune for the sole purpose of making the adaptable entrance of any 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.
 - (iv) 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 ~~to the Construction Official of the Township.~~

- (v) 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 Township's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
- (vi) 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 be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4 ~~utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.~~
 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
 3. 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.
- (a) At least 13% of all low- and moderate-income dwelling 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 requirements 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.
4. 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 of 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.
 5. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculations 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 or homeowner association fees and/or assessments different from those provided for in this subsection are governed by ordinance.
 6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units ~~other than assisted living facilities~~, the following standards shall be used:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.

6. In determining the initial rents and sales prices for compliance with the ~~average~~ 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 used:

- (a) A studio or efficiency unit shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
- (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the MHL and the Administrative Agent.

7. 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% of the purchase price and the FreddieMac 30-Year Fixed Rate Mortgage Federal Reserve H.15 rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed ~~28-30%~~ of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.7 4, 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 3, as may be amended and supplemented.

8. 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 as not to exceed 30% of the eligible gross monthly income of the appropriate household size whose income is targeted to the applicable percentage of the median income for the unit, as determined under N.J.A.C. 5:80-26.3 4, as may be amended and supplemented.; ~~provided, however, that~~ The rent for a restricted rental unit shall be calculated so that the eligible monthly housing expense/income, including an allowance for tenant-paid utilities does not exceed 30% of gross income of and the appropriate household size as determined pursuant to subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

9. 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.

~~The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.~~

~~10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.~~

11. Utilities.

- (a) Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
- (b) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.A.C. 5:80-26.13(e) approved by DCA for its Section 8 program.

§ LDO-1205. AFFIRMATIVE MARKETING REQUIREMENTS.

- A. The Township of Neptune shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, 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 also 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 4 and covers the period of deed restriction.

- C. The affirmative marketing plan shall provide a regional preference, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences for all households that live and/or work in Housing Region 4.
1. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 2. There shall be a regional preference for all households that live and/or work in Housing Region 4 comprising of Mercer, Monmouth and Ocean Counties.
 3. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 4. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
- D. The Township 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 resale and re-rentals. The Administrative Agent designated by the Township shall implement assure the Affirmative Marketing Process to ensure the of all affordable units consistent with the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein. Plan for the municipality.
- 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. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
- H. **[Moved from E]** In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/ tenant law.
- I. **[Moved from F]** The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- J. **[Moved from G]** The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township.

§ LDO-1206. SELECTION OF OCCUPANTS AND OCCUPANCY STANDARDS.

- A. Selection of Occupants of Affordable Housing Units
1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.

2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

B. Occupancy Standards.

1. **[Moved from 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:

(a) **[Moved from 1]** Provide an occupant for each bedroom, except for age-restricted, supportive and special needs housing units;

(b) **[Moved from 2]** Provide a bedroom for every two adult occupants; Provide children of different sex with separate bedrooms; and

(c) **[Moved from 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. Prevent more than two persons from occupying a single bedroom.

(d) Avoid placing a one-person household into a unit with more than one bedroom.

2. **[Moved from B]** Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ LDO-1207. 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. 5:80-26.65, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of Sections LDO-1202 through LDO-1219 until the Township elects to release the unit from such requirements; however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.64, as may be amended and supplemented, for at least 30 years.

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. **[Moved from B]** 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 Township of Neptune 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 Township of Neptune 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. **[Moved from C]** Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

H. **[Moved from D]** At the time of the first 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 obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of Sections LDO-1202 through LDO-1219, 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. **[Moved from E]** The affordability controls set forth in Sections LDO-1202 through LDO-1219 shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- J. **[Moved from F]** A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ LDO-1208. PRICE RESTRICTIONS FOR RESTRICTED OWNERSHIP UNITS, HOMEOWNER ASSOCIATION FEES AND RESALE PRICES.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7~~4~~, as may be amended and supplemented, including:

- A. The initial purchase price and affordability percentage for a restricted ownership unit shall be set approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the ~~foregoing~~ standards set forth in N.J.A.C. 5:80-26.7.
1. 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.
 2. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. 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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
1. 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);
- E. 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.
- F. 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.

§ LDO-1209. BUYER INCOME ELIGIBILITY.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with 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 gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township, 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. **[Moved from B]** 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, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 353% of the household's certified monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exist:
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.

§ LDO-1210. LIMITATIONS ON INDEBTEDNESS SECURED BY OWNERSHIP UNIT; SUBORDINATION.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine, 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, during a control period neither an owner nor a lender shall at any time 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. 5:80-26.6(b).

§ LDO-1211. 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 amended December 20, 2004, 36 N.J.R. 5713 ~~restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of Sections LDO-1202 through LDO-1219 until the Township of Neptune elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years 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 and each restricted rental unit shall remain subject to the requirements of Sections LDO-1202 through LDO-1219 until the Township of Neptune elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, 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. **[Moved from B]** 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, and the deed restriction shall be filed by the developer or seller with the records office of the County of Ocean. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- G. **[Moved from C]** A restricted rental unit shall remain subject to the affordability controls of Sections LDO-1202 through LDO-1219, 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; or
 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 4. The dead 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.

§ LDO-1212. PRICE RESTRICTIONS FOR RENTAL UNITS; LEASES.

- A. The initial rent for a restricted unit shall be set by the Administrative Agent.
- B. **[Moved from A]** 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 provided to and retained by the Administrative Agent.
- C. **[Moved from B]** 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. [Moved from C] 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 and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in Sections LDO-1202 through LDO-1219.
- 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.

§ LDO-1213. TENANT INCOME ELIGIBILITY.

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, 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 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 median income by household size.
- 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of 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 ~~household~~ or a 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~~6~~, 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 ~~proposed~~ 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 the circumstances in Paragraph B.1 through B.5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ LDO-1214. ADMINISTRATION.

A. The position of Municipal Housing Liaison (MHL) for the Township of Neptune is established by Sections LDO-1202 through LDO-1219. The Township shall make the actual appointment of the MHL by means of a resolution.

1. The MHL must be either a full-time or part-time employee of Neptune.
2. **[Moved from 3]** The MHL shall be approved by the Division, or is in the process of getting approval, and fully or conditionally must meets all the requirements for qualifications, including initial and periodic training as set forth in N.J.A.C. 5:99-1 et seq.
3. **[Moved from 2]** The person appointed as the MHL must be reported to the Court and thereafter posted on the Township's website.
4. The ~~Municipal Housing Liaison~~ MHL shall be responsible for oversight and administration of the affordable housing program for the Township of Neptune, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as the municipality's primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, Administrative Agents and interested households;
 - (b) The implementation and oversight of the Affirmative Marketing Plan and affordability controls.
 - (c) When applicable, overseeing and monitoring~~supervising~~ any contracting Administrative Agent.
 - (d) Overseeing and m~~Monitoring~~ the status of all restricted units in the Township Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required;
 - (f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Division Affordable Housing Professionals of New Jersey (AHPNJ).
 - (h) Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
 - (i) Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required have been duly recorded.
 - (j) Listing on the municipal website contact information for the MHL and Administrative Agent.

B. The Township of Neptune shall designate by resolution of the Township Committee, ~~subject to the approval of the Court~~, one or more Administrative Agents to administer the affordable housing program and newly constructed affordable housing units in accordance with the requirements of the FHA, N.J.A.C. 5:99-1 et seq. COAH and UHAC regulations.

1. The fees for Administrative Agents shall be paid as follows:

- (a) Administrative Agent fees related to rental units shall be paid by the developer/owner.
- (b) Administrative Agent fees related to initial sale of units shall be paid by the developer.
- (c) Administrative Agent fees related to resales shall be paid by the seller of the affordable home.
- (d) Administrative Agent fees related to ongoing administration and enforcement shall be paid by the Township.

C. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

D. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:99-7 which are described in full detail in the Operating Manual 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division Affordable Housing Professionals of New Jersey (AHPNJ);
2. Affirmative Marketing;
 - (a) 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.
 - (b) 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;
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households.
 - (b) 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;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates as set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - (e) 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.
 - (f) Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
4. Affordability Controls;
 - (a) 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.
 - (b) 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.
 - (c) Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - (d) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
5. Records retention;
 - (a) 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.
 - (b) Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the Township as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
6. Resale and re-rental;
 - (a) 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 Sections LDO-1202 through LDO-1219.
 - (b) 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.
 - (c) Notifying the Township of an owner's intent to sell a restricted unit.

(d) Making determinations on requests by owners of restricted units for hardship waivers.

7. Processing requests from unit owners ~~and;~~

(a) 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.

(b) 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.

(c) Notifying the municipality of an owner's intent to sell a restricted unit.

(d) Making determinations on requests by owners of restricted units for hardship waivers.

8. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

(a) 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;

(b) 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;

(c) 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;

(d) Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and

(e) 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 shall, as delegated by the Township, have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

~~G. The Administrative Agent shall restrict existing affordable units to very low income occupants as they turn over until such time that the very low income unit obligation is satisfied.~~

E. Responsibilities of the Owner of a development containing affordable units.

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:

(a) Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.

(b) The total number of units in the project and the number of affordable units.

(c) The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.

(d) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.

- (e) A projected construction schedule.
 - (f) The location of any common areas and elevators.
 - (g) The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
2. In addition, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
- (a) Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - (b) Provide to the administrative agent a description of any applicable fees.
 - (c) Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - (d) Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - (e) Provide to the administrative agent a proposed form of lease for any rental units.
 - (f) Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - (g) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
3. In addition the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
- (a) Proposed pricing for all units, including any purchaser options and add-on items.
 - (b) Condominium or homeowner association fees and any other applicable fees.
 - (c) Estimated real property taxes.
 - (d) Sewer, water, trash disposal, and any other utility assessments.
 - (e) Flood insurance requirement, if applicable.
 - (f) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§ LDO-1215. 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 Township 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 a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township 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 Township 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:
 - (a) A fine of not more than \$10,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) 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 Township of Neptune Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) 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 of an innocent tenant's reasonable relocation costs, as determined by the court.
2. 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.
3. **[Moved from 2]** 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- and moderate-income unit.
 - (a) **[Moved from C]** Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the ~~low- and moderate-income~~ 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 Township, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - (b) **[Moved from D]** 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- and 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 and to the 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, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
 - (c) **[Moved from E]** Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
 - (d) **[Moved from F]** 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 low- and moderate-income 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 low- and moderate-income 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 which would have been realized from an actual sale as previously described.

(e) **[Moved from G]** Failure of the low- and 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 which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

(f) **[Moved from H]** The 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.

C. 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.

D. 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.

E. 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.

§ LDO-1216. APPEALS.

Appeals from all decisions of an Administrative Agent designated pursuant to Sections LDO-1202 through LDO-1219 shall 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. with the Superior Court of New Jersey, Monmouth County.

§ LDO-1217. REPEALER.

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by Sections LDO-1202 through LDO-1219 shall remain in full force and effect.

§ LDO-1218. INCONSISTENT ORDINANCES.

All other Ordinances or parts thereof inconsistent with the provisions of Sections LDO-1202 through LDO-1219 are hereby repealed as to such inconsistency.

§ LDO-1219. SEVERABILITY.

If any section, paragraph, subdivision, clause or provision of Sections LDO-1202 through LDO-1219 shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Article shall be deemed valid and effective.

Section 4. These ordinances shall take effect upon their passage and publication as required by law.

Ordinance 26-12 was Adopted on the following vote: AYE: Lane, York, Acciani, Stroud, McMillan; NAY: none; ABSENT: None.

PRIVILEGE OF THE FLOOR/PUBLIC COMMENT'S Mayor McMillan asked for public comments. The public was permitted to speak one time with a limit of five minutes.

There were no comments.

Mayor McMillan closed public comments.

CLOSING COMMENTS

Committeeman Lane – Nothing at this time.

Committeewoman York – Nothing at this time.

Committeeman Acciani – Nothing at this time.

Deputy Mayor Stroud – Committeeman Stroud thanks the members of the public for coming out and being engaged in the process.

Mayor McMillan – Mayor McMillan thanks his Committee Members for their support of the ordinances which will help address the great need for affordable housing in the community.

Mayor McMillan was offered a motion to adjourn from Committeeman Lane, seconded by Committeewoman York. The Motion was adopted by unanimous voice vote by all members present. The Township Committee adjourned at 6:11 p.m.

William Bray, RMC, CMR
Township Clerk
Submitted, March 23, 2026