"Equalized assessed value" 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 of P.L.1973, c.123 (C.54:1-35a through c.54:1-35c).

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

"FSHC" means the Fair Share Housing Center.

"Green building strategies" means those 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.

"Housing Element" means the portion of the Borough’s Master Plan, required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Borough’s fair share obligation.

"Inclusionary development" means a development containing both affordable units and market-rate units. This term includes, but is not necessarily limited to, new construction; the conversion of a non-residential structure to residential; and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50% or less of the regional median household income by household size, as defined below.

"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.

"Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable housing region, as adopted annually by the Borough pursuant to this ordinance, by COAH or a successor entity approved by the New Jersey Superior Court.
"Moderate-income household" means a household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

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

"NJLGS" means New Jersey Local Government Services.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between spouses; the transfer of ownership between former spouses 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.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted regional income limits published annually by COAH or a successor entity.

"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. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

"Special master" means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the Court.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.
"Very low-income household" means a household with a total gross annual household income equal to 30% or less of the median household income by household size.

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

"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.

§ 63-4. 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 within the Borough of Haddonfield pursuant to the Borough’s most recently adopted Housing Element and Fair Share Plan.

B. Moreover, this Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units, including any current unanticipated future developments that will provide very low-, low- and moderate-income housing units.

C. Projects receiving federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC at N.J.A.C. 5:80-26.3 (with the exception that the UHAC requirement for 10% of the affordable units in rental projects being required to be at 35% of median income be modified as required by the statutory requirement at N.J.S.A. 52:27D-329.1 to 13% of affordable units in such projects shall be required to be at 30% of median income) 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.

§ 63-5. Borough-wide Mandatory Set-Aside

A. A multi-family or single-family attached development providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20%.

B. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very low-income households.
C. All such affordable units, including bedroom distribution, shall be governed by the controls on affordability and affirmatively marketed in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., or any successor regulation, and all other applicable law.

D. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.

E. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough of Haddonfield to grant such rezoning, variance or other relief.

F. This Borough-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the Borough’s Settlement Agreement with FSHC or its Housing Element and Fair Share Plan, for which density and set-aside requirements shall be governed by the specific standards as set forth therein. The Borough shall maintain this mandatory set-aside provision through at least July 1, 2025, at which time the Borough may determine to extend the applicability of the provision.

G. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer may choose one of two options of addressing the fractional unit:

1. The developer shall round the set-aside upward to construct a whole additional affordable unit; or

2. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units, but must also make a payment in lieu of constructing the fractional additional unit ("fractional payment-in-lieu"). The fractional payment-in-lieu amount shall be calculated as the fractional unit multiplied by the base payment-in-lieu dollar amount established in §63-7.C.1 of the Borough Code.

3. For example, if seven total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirements above:

   (a) The developer shall round up the 0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units, in accordance with §63-5.G.1; or

   (b) In accordance with §63-5.G.2, the developer shall round the set-aside downward so as to construct only one affordable unit AND shall pay into the Borough’s affordable housing trust fund a
fractional-in-lieu payment equal to the dollar amount established in §63-7.C.1 multiplied by 0.4 units.

§ 63-6. Alternate Living Arrangements

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

1. Affirmative marketing (N.J.A.C. 5:80 26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;


B. 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, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 63-7. New Construction

The following requirements shall apply to all new or planned developments that contain low- and moderate-income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

<table>
<thead>
<tr>
<th>Maximum Percentage of Market-Rate Units Completed</th>
<th>Minimum Percentage of Low- and Moderate-Income Units Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>25+1</td>
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<tr>
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<td>75</td>
<td>75</td>
</tr>
<tr>
<td>90</td>
<td>100</td>
</tr>
</tbody>
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B. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market-rate units.
C. Payments-in-lieu and off-site construction. The standards for the collection of payments in lieu of constructing affordable units or for constructing affordable units off-site shall be in accordance with the following requirements:

1. The base dollar amount of the payment-in-lieu of constructing an affordable unit at the time of adoption of this Ordinance shall be $156,089. This amount shall be adjusted periodically by the Borough to reflect the most current and accurate market conditions or better cover the cost to the Borough of subsidizing affordable housing construction. The payment shall be imposed as a condition of development approval by the Planning Board.

2. During the development approval process, a developer may demonstrate to the governing body that the actual construction cost of an affordable unit less estimated capitalized revenue at the development in question is lower than the imposed payment-in-lieu in §63-7.C.1. At its discretion, the governing body may impose a lower payment-in-lieu amount equal or proximate to the amount estimated by the developer.

D. Utilities

1. Affordable units shall utilize the same type of heating source as market-rate units within the affordable development.

2. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

E. 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 shall be low-income units.

3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low-income households. The very low-income units shall be counted as part of the required number of low-income units within the development.

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1 As set forth in N.J.A.C. 5:97-6.4(c)3
4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

(a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;

(b) At least 30% of all low- and moderate-income units shall be two-bedroom units;

(c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and

(d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Accessibility requirements:

1. The first floor of all new 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 be subject to the technical design standards of the Barrier Free Suoocode, N.J.A.C. 5:23-7 and the following:

2. 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 on the first floor;

(d) An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door, on the first floor;

(e) If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit; but if all of the terms of 2(a) through 2(d) above have been satisfied, then an interior accessible
route of travel shall not be required between stories within an individual unit; and

(f) 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 Borough has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

(1) 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.

(2) To this end, the builder of restricted units shall deposit funds within the Borough of Haddonfield’s Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

(3) The funds deposited under paragraph (2) herein shall be used by the Borough for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

(4) The developer of the restricted units shall submit to the Construction Official of the Borough of Haddonfield a design plan and cost estimate for the conversion from adaptable to accessible entrances.

(5) 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 Borough of Haddonfield’s Affordable Housing Trust Fund in care of the Borough Treasurer, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and earmarked appropriately.

(g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

G. 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 and the calculation procedures as approved by the Court and detailed below:

(a) Regional income limits shall be established for the region in which the Borough is located (i.e. Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the Borough’s housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. The income limits calculated each year shall be the result of applying the percentages set forth above to HUD’s determination of median income for the relevant fiscal year, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year. In no event shall the income limits be less than those for the previous year.

(b) The regional asset limit used in determining an applicant’s eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year’s income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the regional asset limit be less than that for the previous year.

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, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement.

4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for 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.

5. For any affordable housing unit that is part of a condominium association and/or homeowner’s association, the master deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market-rate fee.

6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:

   (a) A studio or efficiency unit shall be affordable to a one-person household;

   (b) A one-bedroom unit shall be affordable to a one and one-half person household;

   (c) A two-bedroom unit shall be affordable to a three-person household;

   (d) A three-bedroom unit shall be affordable to a four and one-half person household; and

   (e) A four-bedroom unit shall be affordable to a six-person household.

7. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be met:
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(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.

8. 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 Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

9. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income, including an allowance for tenant-paid utilities, of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

10. 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.

11. The rent levels of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed 9% in any one year. 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.

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A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

1. Provide an occupant for each bedroom;
2. Provide separate bedrooms for parents and children;
3. Provide children of different sexes with separate bedrooms; and
4. Prevent more than two persons from occupying a single bedroom.

B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

ARTICLE II
Affordable Unit Controls and Requirements

§ 63-9. Purpose

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

§ 63-10. Affirmative Marketing

A. The Borough of Haddonfield shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior 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 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 COAH Housing Region 5 and is required to be followed throughout the period of deed restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 5, comprising Burlington, Camden, and Gloucester counties.
D. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

E. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

F. Applications for affordable housing 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 office. Applications shall be mailed to prospective applicants upon request.

G. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Borough of Haddonfield, and copies of the application forms, to the following entities: FSHC, 510 Park Blvd., Cherry Hill, NJ 08002; the Latino Action Network, PO Box 943, Freehold, NJ 07728; Willingboro NAACP, Attn.: Ms. Kyra Price, PO Box 207, Roebling, NJ 08954, Southern Burlington County NAACP, PO Box 3211, Cinnaminson, NJ 08077; the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016; and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

H. 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. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

J. The 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 Borough of Haddonfield.
§ 63-11. Selection of Occupants of Affordable Housing Units.

A. The Administrative Agent shall use a random selection process to select occupants of low- and moderate- income housing.

B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq.

§ 63-12. 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. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the Borough takes action to release the controls on affordability. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

D. 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.

E. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser’s heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit’s release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit’s non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

F. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

G. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction
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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.

§ 63-13. 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. 5:80-26.1, as may be amended and supplemented, including:

A. The initial purchase price for a restricted ownership unit shall be 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.

C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market-price purchasers.

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 anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 63-14. Buyer Income Eligibility

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that 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 Borough Commissioners, and subject to the Court’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 purchaser shall be treated as a low-income ownership unit.
household shall retain the required pricing and pricing restrictions for a low-income unit.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household’s principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household’s eligible monthly income.

§ 63-15. Limitations on Indebtedness Secured by Ownership Unit; Subordination

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent issue such determination prior to the owner incurring such indebtedness.

B. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.6(b).

§ 63-16. Capital Improvements to Ownership Units

A. The owner of a restricted ownership unit may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-
to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. 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 owner and the purchase 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.

§ 63-17. Control Periods for Restricted Rental Units

A. Control periods for 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 this Ordinance for a period of at least 30 years, until the Borough of Haddonfield takes action to release the controls on affordability. Prior to such action, 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.

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.

B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

C. 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 Camden. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;

2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 63-18. Rent Restrictions for Rental Units; Leases

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 the Administrative Agent.

B. No additional fees 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.

C. 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 this Ordinance.

D. No rent control or other pricing restriction shall be applicable to either the market-rate units or the affordable units in any development in which at least 20% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 63-19. 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 the regional median income by household size.

2. Low-income rental units shall be reserved for households with a gross household income greater than 30% but less than or equal to 50% of the regional median income by household size.

3. Moderate-income rental units shall be reserved for households with a gross household income greater than 50% but less than 80% of the regional median income by household size.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or
moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household’s eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in B1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ 63-20. Conversions

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

ARTICLE III
Administration

§ 63-21. Municipal Housing Liaison

A. As approved by municipal resolution in 2006, the Borough Administrator will continue to hold the position of the Municipal Housing Liaison.

B. The Municipal Housing Liaison has been approved by the Court, and meets the requirements for qualifications, including initial and periodic training, found in N.J.A.C. 5:93 and 5:96.
The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Haddonfield, including the following responsibilities, which may not be contracted out to the Administrative Agent:

1. Serving as the Borough's primary point of contact for all inquiries from the State, affordable housing providers, administrative agents and interested households;

2. The implementation of the Affirmative Marketing Plan and affordability controls;

3. When applicable, supervising any contracting Administrative Agent;

4. Monitoring the status of all restricted units listed in the Borough of Haddonfield’s Fair Share Plan;

5. Compiling, verifying and submitting annual reports as required by the Superior Court;

6. Coordinating meetings with affordable housing providers and administrative agents, as needed; and

7. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court.

§ 63-22. Administrative Agent

A. The Borough shall designate by resolution of the Borough Commissioners, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93, UHAC and this Ordinance.

B. Each Administrative Agent shall be an independent entity serving under contract to and reporting to the Borough. The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

C. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.

D. 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 and subject to approval of the Superior Court. The
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Operating Manual(s) shall be available for public inspection in the Office of the Borough Clerk and in the office(s) of the Administrative Agent(s).

E. The Administrative Agent(s) shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14. 16 and 18 thereof, which include:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;

2. Affirmative marketing:

   (a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Haddonfield and the provisions of N.J.A.C. 5:80-26.15; and

   (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;

   (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the firm, as applicable, of either the ownership or rental certificates set forth in 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;
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(f) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Haddonfield when referring households for certification to affordable units; and

(g) Notifying the following entities of the availability of affordable housing units in the Borough of Haddonfield: Fair Share Housing Center; the Latino Action Network; Willingboro NAACP; Southern Burlington County NAACP; the Supportive Housing Association; and the New Jersey Housing Resource Center.

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) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the Camden County Register of Deeds or Camden County Clerk’s office after the termination of the affordability controls for each restricted unit;

(d) Communicating with lenders regarding foreclosures; and

(e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

5. Records retention;

6. Resales and rentals

(a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental;

(b) Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or rental.

7. Processing requests from unit owners
(a) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership 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 Borough of an owner's intent to sell a restricted unit; and

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

8. Enforcement

(a) Securing annually from the municipality a list of all affordable ownership units for which 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) Posting annually in all rental properties, including two-family homes, a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

(d) Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(e) Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and

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(f) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Commissioners and the Court, setting forth procedures for administering the affordability controls.

9. The Administrative Agent(s) shall, as delegated by the Borough Commissioners, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

§ 63-23. Enforcement of Affordable Housing Regulations

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action in pursuance 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 $500.00 or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

   (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 Borough of Haddonfield Affordable Housing Trust Fund of the gross amount of rent illegally collected;
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(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 may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner’s equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

(a) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- or moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney’s fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff’s sale.

(b) The proceeds of the Sheriff’s sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff’s sale. In the event that the proceeds from the Sheriff’s sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

(c) Foreclosure 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 they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- or 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- or 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 that would have been realized from an actual sale as previously described.

(e) Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

(f) The 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.


Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Borough.

ARTICLE IV
Development Fees

§ 63-25. Purpose

This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential
Development 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.

§ 63-26. Basic Requirements

A. COAH had previously approved the Borough’s development fee ordinance in 2005, which ordinance established the Borough’s Affordable Housing Trust Fund. The Borough’s development fee ordinance remains effective and is amended herein pursuant to the Superior Court’s jurisdiction in accordance with N.J.A.C. 5:93-8.

B. The Borough of Haddonfield shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-8.

§ 63-27. Residential Development Fees

A. Imposed fees

1. Within the Borough of Haddonfield, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

2. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

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

1. 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 a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Borough of Haddonfield, shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

4. No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster.


A. Imposition of fees

1. 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.

2. 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.

3. 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.

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

1. 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.

2. 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 Borough of Haddonfield as a lien against the real property of the owner.

§ 63-29. Collection Procedures

A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The construction official responsible for the issuance of a building permit shall notify the Borough 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 Borough tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.

E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the Borough tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Borough tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the Borough of Haddonfield fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

H. Except as provided in Section 63-28.A.(3) hereinafore, 50% of the development fee shall be collected at the time of issuance of the
construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

I. Appeal of development fees

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

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

§ 63-30. Affordable Housing Trust Fund

A. A separate, interest-bearing Affordable Housing Trust Fund was previously created and shall be maintained by the chief financial officer of the Borough of Haddonfield 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 an affordable unit, where permitted by ordinance or by agreement with the Borough of Haddonfield;
2. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

3. Rental income from municipally operated units;

4. Repayments from affordable housing program loans;

5. Recapture funds;

6. Proceeds from the sale of affordable units; and

7. Any other funds collected in connection with the Borough of Haddonfield's affordable housing program.

C. The Borough of Haddonfield has previously provided COAH with written authorization, in the form of escrow agreements between the Borough and Susquehanna Bank, between the Borough and TD Bank, and between the Borough and Republic Bank, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. The Superior Court shall now have such jurisdiction to direct the disbursement of the Borough's trust funds per N.J.A.C. 5:93-8.

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

E. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the Borough a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize NJLGS to direct the expenditure of funds in the trust fund or impose such other remedies as may be reasonable and appropriate to the circumstances.
F. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

§ 63-31. Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Haddonfield's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Haddonfield for past housing activities.

C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. At least one-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low-income households earning 30% or less of median income by household size for Housing Region 5, in which the Borough of Haddonfield is located.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, 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 households earning 30% or less of the regional median household income by household size 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. The specific programs to be used for very low-income affordability assistance shall be identified and described within the Spending Plan.

D. The Borough of Haddonfield 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. 5:93-8.16.

E. No more than 20% of all revenues collected from development fees, and interest, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program.

1. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.

2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set forth in the Court-approved Settlement Agreement with the FSHC executed April 2, 2019. Legal or other fees related to litigation opposing affordable housing sites or related to appealing a judgement from the Court are not eligible uses of the Affordable Housing Trust Fund.

§ 63-32. Monitoring

On or about April 2 of each year through 2025, the Borough of Haddonfield shall provide annual reporting of trust fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the Borough's website, using forms developed for this purpose by the DCA, COAH, or NJLGS. This reporting shall include an accounting of all 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, payments in lieu of constructing affordable units on site (if permitted by
ordinance or by agreement with the Borough), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from Borough-owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Haddonfield's housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

§ 63-33. Ongoing Collection of Fees

A. The ability for the Borough of Haddonfield to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Haddonfield has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a Judgment of Compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance, and has received approval of its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Borough of Haddonfield fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 [C. 52:27D-320].

C. The Borough of Haddonfield shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Haddonfield retroactively impose a development fee on such a development. The Borough of Haddonfield also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

Section V. Repealer. All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

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

Section VII. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.
First Reading – November 26, 2019
Second Reading – December 17, 2019

Neal Rochford, Mayor

Deanna Bennett, Borough Clerk

ROLL CALL VOTE:  
YES NO
BIANCO BEZICH X
KASKO X
ROCHFORD X

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HADDONFIELD AT A MEETING HELD ON DECEMBER 17, 2019.

Deanna Bennett, RMC
APPENDIX K

Resolution Appointing Municipal Affordable Housing Liaison
BOROUGH OF HADDONFIELD
Camden County, New Jersey

December 17, 2019

2019-12-17-199
Authorization to Appointing a Municipal Housing Liaison

WHEREAS, the Borough of Haddonfield’s Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and COAH’s Third Round Substantive Rules (N.J.A.C. 5:93-1 et seq.); and

WHEREAS, pursuant to N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq., the Borough of Haddonfield is required to appoint a Municipal Housing Liaison for the administration of Haddonfield Borough’s affordable housing program to enforce the requirements of N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, the Borough of Haddonfield has amended the Borough Code to provide for the appointment of a Municipal Housing Liaison to administer Haddonfield Borough’s affordable housing program.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Borough of Haddonfield in the County of Camden, State of New Jersey, that the Borough Administrator, Sharon McCullough, is hereby appointed by the Commissioners of the Borough of Haddonfield as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Haddonfield’s Borough Code.

Neal Rochford, Mayor
Deanna Bennett, Borough Clerk

ROLL CALL VOTE:    YES   NO
BIANCO BEZICH     X
KASKO             X
ROCHFORD          X

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HADDONFIELD AT A MEETING HELD ON DECEMBER 17, 2019.

Deanna Bennett, Borough Clerk
APPENDIX L

Administrative Agent Agreement, Authorizing Resolution

Operating Manuals To Be Provided
2019-12-17-200
Authorization to Enter into a Contract with an Administrative Agent for the Administration of Affordable Housing Units

WHEREAS, the Planning Board of the Borough of Haddonfield adopted a Housing Element and Fair Share Plan at a public hearing on November 13, 2019, which was endorsed by the Borough Commissioners on December 17, 2019; and

WHEREAS, the Borough adopted an Affordable Housing Ordinance on December 17, 2019 that created the position of Administrative Agent; and

WHEREAS, the Mayor and Commissioners of the Borough of Haddonfield wish to enter into a contract with Piazza & Associates, which is attached hereto as Exhibit A, to become the Borough’s Administrative Agent for the purpose of administering and enforcing the affordability controls and the Affirmative Marketing Plan of the Borough of Haddonfield, in accordance with acceptable COAH regulations and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26 et seq.).

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Borough of Haddonfield in the County of Camden, State of New Jersey that Piazza & Associates is hereby designated as the Borough’s Administrative Agent; and

BE IT FURTHER RESOLVED that the Mayor and the Borough Clerk are hereby authorized to sign the contract between the Borough of Haddonfield and Piazza & Associates which is attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that this resolution shall take effect pursuant to law.

Neal Rochford, Mayor

Deanna Bennett, Borough Clerk

ROLL CALL VOTE:

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I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HADDONFIELD AT A MEETING HELD ON DECEMBER 17, 2019.

Deanna Bennett, Borough Clerk