

Housing Element and Fair Share Plan

Fourth Round Plan

Township of Pennsville
Salem County, New Jersey

DRAFT May 29, 2025

Clarke Caton Hintz



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EXECUTIVE SUMMARY

This Fourth Round Housing Element and Fair Share Plan (“HEFSP”) has been prepared for Pennsville Township, Salem County in accordance with the 2024 amended New Jersey Fair Housing Act (“FHA”), the Administrative Court Directives and the rules of the New Jersey Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 et seq., as upheld by the amended FHA. There are four components to a municipality’s affordable housing obligation: the Fourth Round Present Need or Rehabilitation Share, the Prior Round Prospective Need, the Third Round Gap/Prospective Need, and the Fourth Round Prospective Need. The Township’s affordable housing obligations are as follows:

- Fourth Round Present Need/Rehabilitation Obligation: 69
- Prior Round Prospective Need: 228
- Third Round ‘Gap’/Prospective Need: 234
- Fourth Round Prospective Need: 46

The Township intends to address its Fourth Round rehabilitation obligation by implementing a local rehabilitation program and applying for funding through the Small Cities Community Development Block Grant (“CDBG”) program. Pennsville will provide funding from its affordable housing trust fund necessary to supplement the cost of rehabilitations.

The Township has fully satisfied the Prior Round obligation (1987-1999) of 228 through the following mechanisms: 99 Prior Cycle credits from the existing Pennsville Towers 100% senior affordable development; 55 completed senior and special needs rental units at the Kent Avenue site (including 41 of 86 senior units and 14 special needs units); 55 affordable family units to be produced through inclusionary zoning on eight (8) designated sites, where water capacity must be reserved to support 275 total housing units, of which 20% (55 units) will be affordable, implemented on a first-come, first-served basis; and 19 Prior Round rental bonuses.

The Third Round obligation (1999-2025) of 234 will be addressed through the remaining 45 senior affordable rental units at the existing Kent Avenue site; 13 of approximately 60 senior affordable rentals at the proposed 100% affordable Pennsville Towers expansion site; at least nine (9) Third Round rental bonuses; and a Court-approved Third Round durational adjustment addressing the balance of 167 of its Third Round obligation.

For both the Prior Round and Third Round, the HEFSP also provides a development alternative where the property known as “New Site #10” (Block 4201, Lot 17.01) is developed as a 60-unit 100% affordable development. Under this option, the 60-unit

development would be used to address the remainder of the Township's Prior Round obligation and a portion of its Third Round obligation, thereby leaving a smaller balance of the Third Round obligation (99 instead of 167) to be addressed by the Court-approved durational adjustment.

The Fourth Round obligation (2025-2035) of 46 will be addressed using 10 of the remaining 47 senior affordable rentals within the 60-unit Pennsville Towers expansion site and 10 Fourth Round bonuses. Pennsville Township is requesting a continuation of its Court-approved durational adjustment addressing the balance of 26 of its Fourth Round obligation.

The Township's current durational adjustment (due to the lack of water system capacity) was not only previously approved by the Superior Court, but has also been statutorily upheld through reliance stated in the 2024 amended FHA at N.J.S.A. 52:27D-31.1.m on COAH's durational adjustment regulations at N.J.A.C. 5:93-4 et seq. The Township's request for a continuation of the current durational adjustment of a portion of its Third Round and Fourth Round affordable housing obligations will again utilize inclusionary zoning sites previously enacted by the Township as suitable sites to provide inclusionary residential development with market-rate housing (80%) and affordable housing (20%) if water capacity becomes available. At this time, water capacity is not available nor is it required to be reserved for 193 affordable units (167 Third Round + 26 Fourth Round) as part of inclusionary residential developments on any specific remaining inclusionary zoning sites.

NEW JERSEY AFFORDABLE HOUSING JUDICIAL & LEGISLATIVE BACKGROUND

In the 1975 Mount Laurel¹ decision, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide diversity and choice in the housing types permitted in the municipality, including housing for low- and moderate-income households. In its 1983 Mount Laurel II decision,² the NJ Supreme Court extended to all municipalities with any "growth area" as designated in the State Development Guide Plan (now superseded by the State Development and Redevelopment Plan, or SDRP) the obligation to provide their "fair share" of a calculated regional need for affordable units. Mount Laurel II also introduced a "builder's remedy" if a municipality was not providing its fair share of affordable housing. A builder's remedy may permit a developer that is successful in litigation the right to develop what is typically a higher density multifamily project on land not zoned to permit such use, so long as a "substantial" percentage of the proposed units would be reserved for low- and moderate-income households.

In 1985, in response to Mount Laurel II, the New Jersey Legislature enacted the FHA.³ The FHA created COAH as an administrative body responsible for oversight of municipalities' affordable housing efforts, rather than having oversight go through the

¹ Southern Burlington County NAACP v. Township of Mount Laurel, 67 N.J. 151 (1975)

² Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983)

³ N.J.S.A. 52:27D-301 et seq.

courts. The Legislature charged COAH with promulgating regulations (i) to establish housing regions; (ii) to estimate low- and moderate-income housing needs; (iii) to set criteria and guidelines for municipalities to use in determining and addressing their fair share obligations, and (iv) to create a process for the review and approval of municipal housing elements and fair share plans.

COAH's First and Second Rounds (1987-1999)

COAH created the criteria and regulations for municipalities to address their affordable housing obligations. COAH originally established a methodology for determining municipal affordable housing obligations for the six-year period between 1987 and 1993,⁴ which period became known as the First Round. This methodology established an existing need to address substandard housing that was being occupied by low- and moderate-income households (variously known as “present need” or “rehabilitation share”), and calculated future demand, to be satisfied typically, but not exclusively, with new construction (“prospective need” or “fair share”).

The First Round methodology was superseded in 1994 by COAH's Second Round regulations.⁵ The 1994 regulations recalculated a portion of the 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 census data. These regulations identified a municipality's cumulative obligations for the First and Second Rounds. Under regulations adopted for the Third Round, a municipality's obligation to provide affordable housing for the First and Second Rounds is referred to cumulatively as the Prior Round obligation.

COAH's Third Round and Related Judicial and Legislative Activity, (1999-2025)

The FHA had originally required housing rounds to be for a six-year period for the First and Second Rounds, then in 2001, the time period increased to a 10-year period consistent with the Municipal Land Use Law (“MLUL”). In order to utilize 2000 census data which hadn't yet been released, COAH delayed the start of the Third Round from 1999 to 2004, with the Third Round time period initially ending in 2014. In December 2004, COAH's first version of the Third Round rules⁶ became effective, and the 15-year Third Round time period (1999 – 2014) was condensed into an affordable housing delivery period from January 1, 2004, through January 1, 2014.

The 2004 Third Round rules marked a significant departure from the methods utilized in COAH's Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a “growth share” approach that linked the production of affordable housing to residential and non-residential development in a municipality.

⁴ N.J.A.C. 5:92-1 et seq.

⁵ N.J.A.C. 5:93-1.1 et seq.

⁶ N.J.A.C. 5:94-1 and 5:95-1

On January 25, 2007, a New Jersey Appellate Court decision⁷ invalidated key elements of the first version of the Third Round rules, including the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules, with COAH issuing revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008) which largely retained the growth share approach.

Just as various parties had challenged COAH's initial Third Round regulations, parties challenged COAH's 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision on the challenges.⁸ The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality, but invalidated the regulations by which the agency assigned housing obligations in the Third Round, again ruling that COAH could not allocate obligations through a growth share formula. Instead, the Appellate Division directed COAH to use methods similar to those used in the First and Second Rounds.

Third Round Judicial Activity

After various challenges were filed, on September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision⁹ and ordered COAH to prepare the necessary rules. COAH failed to adopt new rules, and more challenges ensued.

On March 10, 2015, the New Jersey Supreme Court issued a ruling on Fair Share Housing Center's ("FSHC's") Motion in Aid of Litigant's Rights, which became known as Mount Laurel IV.¹⁰ In this decision, the Court transferred responsibility for reviewing and approving housing elements and fair share plans from COAH to designated Mount Laurel trial judges, declaring COAH "moribund." Municipalities were now to apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. The Mount Laurel trial judges, with the assistance of a Court-appointed Special Adjudicator, were tasked with reviewing municipal plans much in the same manner as COAH had done previously. Those towns whose plans were approved by the Court received a Judgment of Compliance and Repose, the court equivalent of COAH's substantive certification.

While the NJ Supreme Court's decision set a process in motion for towns to address their Third Round obligation, the decision did not assign those obligations. Instead, that was to be done by the trial courts, although ultimately most towns entered into settlement agreements to set their fair share obligations. The Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and those components of COAH's 2008 regulations that were specifically upheld, as well as the FHA, in their preparation of Third Round housing elements and fair share plans.

⁷ In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (2007)

⁸ In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462 (2010)

⁹ In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013)

¹⁰ In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1 (2015)

On January 17, 2017, the NJ Supreme Court rendered a decision¹¹ that found that the period between 1999 and 2015, now known as the “gap period,” when no valid affordable housing regulations were in force, generated an affordable housing obligation. This obligation required an expanded definition of the municipal Present Need obligation to include the unaddressed housing needs of low- and moderate-income households that had formed during the gap period. This meant that the municipal affordable housing obligation would now comprise four components: Present Need (rehabilitation), Prior Round (1987-1999, new construction), Gap Need (1999-2015, new construction), and Prospective Need (Third Round, 2015 to 2025, new construction).

Third Round Legislative Activity

In addition to the judicial decisions, the New Jersey Legislature has amended the FHA several times in recent years.

On July 17, 2008, P.L. 2008 c. 46 (referred to as the “Roberts Bill” or “A500”) was enacted, which amended the FHA in a number of ways. Key provisions included the following:

- It established a statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing;
- It eliminated new regional contribution agreements (“RCAs”) as a compliance technique available to municipalities; previously a municipality could fund the transfer up to 50% of its fair share to a so called “receiving” municipality;
- It added a requirement that 13% of all affordable housing units be restricted to very low-income households, which it defined as households earning 30% or less of median income; and
- It added a requirement that municipalities had to commit to spend development fees within four years of the date of collection. This was later addressed in a Superior Court decision which found the four-year period begins at the time the Court approves the municipal spending plan.¹²

In July 2020, the State amended the FHA again to require, beginning in November 2020, that all affordable units that are subject to affirmative marketing requirements must also be listed on the state’s Affordable Housing Resource Center website.¹³ All affordable housing Affirmative Marketing Plans are now required to include listing on the State Affordable Housing Resource Center website.

¹¹ In Re Declaratory Judgment Actions Filed by Various Municipalities, 227 N.J. 508 (2017)

¹² In the Matter of the Adoption of the Monroe Township Housing Element and Fair Share Plan, and Implementing Ordinances (2015)

¹³ <https://njhrc.gov>

The Fourth Round (2025-2035)

On March 20, 2024, the FHA was amended again. This amendment, P.L. 2024 c.2:

- Formally abolishes COAH;
- Requires the NJ Department of Community Affairs (“DCA”) to promulgate municipal obligations using an adjusted methodology. These obligations are to be considered advisory, not binding;
- Establishes a timeline within which municipalities need to adopt and submit binding resolutions establishing their Fourth Round fair share obligations, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Requires the NJ Housing and Mortgage Finance Agency (“HMFA”) and DCA to update rules and standards governing affordable housing production, trust funds and administration;
- Establishes a Court-based Affordable Housing Dispute Resolution Program (“Program”) that will be responsible for challenges to municipalities’ affordable housing obligation determinations and compliance efforts;
- Establishes a longer control period – 40 years, rather than 30 years – for new affordable rental units;
- Changes the criteria for affordable housing bonuses, making various additional categories of affordable housing eligible for bonuses;
- Establishes a timeline within which municipalities need to take various steps toward adoption of a Housing Element and Fair Share Plan, in order for them to retain their immunity from exclusionary zoning lawsuits;
- Establishes new reporting and monitoring procedures and deadlines for both affordable units and affordable housing trust funds, and assigns oversight for reporting and monitoring to DCA.

In December 2024, the Administrative Office of the Courts issued Administrative Directive #14-24, establishing procedures for implementation of the Program and for municipalities to file their Fourth Round Declaratory Judgment (“DJ”) filings, etc. As detailed under the section covering requirements of an HEFSP, the Administrative Directive also set requirements for what must be included in a compliant Fourth Round HEFSP.

This plan has been prepared to meet the requirements of the FHA as most recently amended, as well as the 2024 Administrative Directive and all applicable regulations.

PENNSVILLE TOWNSHIP'S AFFORDABLE HOUSING HISTORY

Pennsville Township prepared a Second Round HEFSP in 2004¹⁴ and an initial Third Round HEFSP in 2005, the latter of which was granted substantive certification by COAH on June 14, 2006. Due to the changing landscape of New Jersey's affordable housing regulations at the time, Pennsville prepared an updated HEFSP in accordance with COAH's revised Third Round rules at N.J.A.C. 5:97, which became effective in 2008. The Township's revised Third Round HEFSP was granted substantive certification on May 14, 2009.

Pennsville Township's previous HEFSPs proposed to address its affordable housing obligations by using existing senior affordable rental housing credits, a proposed 100% affordable senior/special needs development, and five (5) inclusionary zoning sites that were formally rezoned on May 18, 2006. However, subsequent regulatory changes made by the New Jersey Department of Environmental Protection ("DEP") impacted the developable area in Pennsville and reduced the potential yield from these approved inclusionary zoning sites from 133 affordable units to 51 affordable units.

Pursuant to the NJ Supreme Court's March 10, 2015 decision ("Mount Laurel IV"), Pennsville Township was deemed to be a 'certified' municipality; and the Township filed its Third Round Declaratory Judgment ("DJ") action with the Superior Court on June 29, 2015. Subsequently, Pennsville and FSHC executed a Third Round settlement agreement on November 15, 2016 (Appendix B) in which the Township agreed to revise its inclusionary zoning mechanisms by rezoning Site #1 through Site #5 to accommodate significantly higher densities and by adding four (4) additional inclusionary zoning sites, known as Site #6 through Site #9. The revised inclusionary zoning took effect on July 20, 2017 (Ordinance A-16-2017, Appendix D). The revised inclusionary zoning sites and the balance of existing senior/special needs affordable rental housing credits and eligible rental bonuses were documented in the Township's 2017 Third Round HEFSP, which was approved by the Superior Court in a Final Judgment of Compliance and Repose ("JOR") on December 19, 2017 (Appendix A).

On October 15, 2024, the Township and FSHC executed an amended settlement agreement further revising Pennsville's plan for inclusionary zoning (Appendix B). The 2024 amended settlement agreement was approved by the Court in an Order dated January 3, 2025 (Appendix B). As will be further discussed, the Court-approved amended settlement agreement eliminated Sites #3 and #4 as inclusionary zoning sites and replaced them by reconfiguring the former Site #9 from 70% commercial/30% residential into new Sites #9 and #10 with inclusionary residential zoning on both sites

¹⁴ The Township petitioned COAH for Second Round substantive certification on September 30, 2004. While no objections were filed, COAH was unable to process the Township's petition prior to December 20, 2004, the effective date of COAH's initial Third Round rules at N.J.A.C. 5:94 et seq. Pursuant to N.J.A.C. 5:95-15.1(a), COAH no longer granted Second Round substantive certifications after December 20, 2004.

and by permitting the options for either 100% affordable residential/commercial or inclusionary residential housing on new Site #10.

On January 16, 2025, Pennsville Township adopted a resolution declaring a Fourth Round Present Need of 69 units and a Fourth Round Prospective Need of 46, based on calculations performed by DCA (Appendix C). On January 17, 2025, the Township subsequently filed its Fourth Round DJ action with the Superior Court/Program, pursuant to the requirements of the amended FHA and the Administrative Directive #14-24. As no objections/challenges were filed against the Township's reliance on DCA's Fourth Round fair share numbers, the Superior Court affirmed the Township's Fourth Round obligations by Order dated April 28, 2025.

AFFORDABILITY REQUIREMENTS

Affordable housing is defined under the amended FHA as a dwelling, either for sale or rent that is within the financial means of households of very-low, low- or moderate-income as income is measured within each housing region. Pennsville Township is in Region 6, which includes the Counties of Atlantic, Cape May, Cumberland, and Salem. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. Very low-income include those households with annual incomes of 30% or less of the regional median income.

Through the Uniform Housing Affordability Controls (“UHAC”) found at N.J.A.C. 5:80-26.1 *et seq.*, the maximum rent for a qualified unit must be affordable to households that earn no more than 60% of the median income for the region. The average rent must be affordable to households earning no more than 52% of the median income. The maximum sale prices for affordable units must be affordable to households that earn no more than 70% of the median income. The average sale price must be affordable to a household that earns no more than 55% of the median income.

The regional median income is now defined in the amended FHA and continues to utilize HUD income limits on a regional basis. In the spring of each year HUD releases updated income limits which are reallocated regionally. It is from these income limits that the rents and sale prices for affordable units are derived. See Table 1 for income limits for Region 6 and Tables 2 and 3 for illustrative sale prices and gross rents from 2024 (the latest figures available). The sample rents and sale prices are illustrative and are gross figures which do not account for the specified utility allowance for rentals.

Table 1. 2024 Income Limits for Region 6

Household Income Levels	1 Person Household	2 Person Household	3 Person Household	4 Person Household	5 Person Household
Median	\$68,852	\$78,688	\$88,524	\$98,360	\$106,228
Moderate	\$55,081	\$62,950	\$70,819	\$78,688	\$84,983
Low	\$34,426	\$39,344	\$44,262	\$49,180	\$53,114
Very Low	\$20,655	\$23,606	\$26,557	\$29,508	\$31,868

Source: Affordable Housing Professionals of New Jersey (“AHPNJ”) 2024 Affordable Housing Regional Income Limits

Table 2. Illustrative 2024 Affordable Rents for Region 6

Household Income Levels (% of Median Income)	1 Bedroom Unit Rent	2 Bedroom Unit Rent	3 Bedroom Unit Rent
Moderate (60%)	\$1,107	\$1,328	\$1,534
Low (50%)	\$922	\$1,107	\$1,279
Very Low (30%)	\$553	\$664	\$767

Source: AHPNJ Affordable Housing Regional Income Limits and Rental Calculator

Table 3. Illustrative 2024 Affordable Sales Prices for Region 6

Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate (70%)	\$100,937	\$129,389	\$155,945
Low (50%)	\$60,291	\$80,614	\$99,582
Very Low (30%)	\$19,645	\$31,839	\$43,220

Source: AHPNJ Affordable Housing Regional Income Limits and Sales Calculator

HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 *et seq.*), a municipal master plan must include a housing plan element as the foundation for the municipal zoning ordinance (see N.J.S.A. 40:55D-28b(3)). Pursuant to the FHA (N.J.S.A. 52:27D-301 *et seq.*), a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. Specifically, N.J.S.A. 52:27D-310 requires that the housing element contain at least the following (*emphasis added*):

- a. *An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;*
- b. *A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;*
- c. *An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;*
- d. *An analysis of the existing and probable future employment characteristics of the municipality;*
- e. *A determination of the municipality's present and prospective fair share of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing, as established pursuant to section 3 of P.L. 2024, c.2 (C.52:27D-304.1);*
- f. *A consideration of the lands most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing,*

including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing;

- g. *An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20); and*
- h. *For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and*
- i. *An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.*

In addition to FHA requirements, this Fourth Round HEFSP has been prepared in compliance with the following requirements set forth by Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024:

- 1. *One of the requirements for a final HEFSP is the inclusion of detailed site suitability analyses, based on the best available data, for each of the un-built inclusionary or 100 percent affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.*
- 2. *The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis. When the detailed analyses are completed, the municipality can see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by the settlement agreement will actually be produced. If it becomes apparent that one (or more) of the sites in the plan does not have the capacity to accommodate all of the development proposed for it, the burden will be on the municipality either to adjust its zoning regulations (height, setbacks, etc.) so that the site will be able to yield the*

number of units and affordable units anticipated by the settlement agreement or to find other mechanisms or other sites as needed to address the likelihood of a shortfall.

3. *The final HEFSP must fully document the creditworthiness of all of the existing affordable housing units in its HEFSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided.*
4. *The HEFSP must include an analysis of how the HEFSP complies with or will comply with all of the terms of the executed settlement agreement. Once the HEFSP has been prepared, it must be reviewed by Fair Share Housing Center and the Program's Special Adjudicator for compliance with the terms of the executed settlement agreement, the FHA and UHAC regulations. The HEFSP must be adopted by the Planning Board and the implementation components of the HEFSP must be adopted by the governing body.*

The HEFSP must also include (in an Appendix) all adopted ordinances and resolutions needed to implement the HEFSP, including:

1. *All zoning amendments (or redevelopment plans, if applicable).*
2. *An Affordable Housing Ordinance that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in the settlement agreement, requirements regarding very low income housing and very low income affordability consistent with the FHA and the settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).*
3. *The adoption of the mandatory set aside ordinance, if any, and the repeal of the existing growth share provisions of the code.*
4. *An executed and updated Development Fee Ordinance that reflects the court's jurisdiction.*

5. *An Affirmative Marketing Plan adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in the settlement agreement.*
6. *An updated and adopted Spending Plan indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.*
7. *A resolution of intent to fund any shortfall in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.*
8. *Copies of the resolution(s) and/or contract(s) appointing one or more Administrative Agent(s) and of the adopted ordinance creating the position of, and resolution appointing, the Municipal Affordable Housing Liaison.*
9. *A resolution from the Planning Board adopting the HEFSP, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a resolution of the governing body endorsing the HEFSP.*

Consistent with N.J.A.C. 5:93-5.5, any municipally sponsored 100 percent affordable housing development will be required to be shovel-ready within two (2) years of the deadlines set forth in the settlement agreement:

1. *The municipality will be required to submit the identity of the project sponsor, a detailed pro forma of project costs, and documentation of available funding to the municipality and/or project sponsor, including any pending applications for funding, and a commitment to provide a stable alternative source, in the form of a resolution of intent to fund shortfall, including by bonding, if necessary, in the event that a pending application for outside funding has not yet been not approved.*
2. *Additionally, a construction schedule or timetable must be submitted setting forth each step in the development process, including preparation and approval of a site plan, applications for state and federal permits, selection of a contractor, and start of construction, such that construction can begin within two (2) years of the deadline set forth in the settlement agreement.*

HOUSING CONDITIONS

A summary of Pennsville's housing stock by occupancy and number of units is shown in Table 4. Pennsville's housing stock consists of an estimated 5,580 housing units, of which 70.6% are owner-occupied, 19.7% are renter-occupied, and 9.7% are vacant. The existing housing stock is primarily composed of single-family detached housing units (76.9%), apartment buildings with 10 or more units (10.6%).

Table 4. Housing Units by Number of Units in Structure and Tenure, 2023

Number of Units in Structure	Owner- Occupied		Renter- Occupied		Vacant		Total	
	Units	Percent	Units	Percent	Units	Percent	Units	Percent
1, Detached	3,966	67.4%	326	5.5%	231	3.9%	4,523	76.9%
1, Attached	7	0.1%	44	0.7%	40	0.7%	91	1.5%
2	18	0.3%	72	1.2%	46	0.8%	136	2.3%
3 or 4	17	0.3%	125	2.1%	30	0.5%	172	2.9%
5 to 9	10	0.2%	111	1.9%	0	0.0%	121	2.1%
10 or more	29	0.5%	465	7.9%	127	2.2%	621	10.6%
Other	102	1.7%	15	0.3%	99	1.7%	216	3.7%
Total	4,149	70.6%	1,158	19.7%	573	9.7%	5,880	100%

Source: Table B25032 and Table DP04, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

The estimated age of Pennsville's housing stock is shown in Table 5. The median year of construction of all housing units in Pennsville is 1963, which is the same as that of the County and older than the State (1969). More than half of the Township's housing stock was built prior to 1960, and only 11.8% has been built since 1990. Owner-occupied units are generally newer than renter-occupied units with a median age of 1969 and 1960, respectively. As for the units built pre-1939, 67% are owner occupied, 20% are renter occupied, and 13% are vacant.

Table 5. Housing Units by Year Built and Tenure, 2023

Year Built	Owner-Occupied		Renter-Occupied		Vacant		Total	
	Units	Percent	Units	Percent	Units	Percent	Units	Percent
2020 or later	0	0.0%	0	0.0%	0	0.0%	0	0.0%
2010 to 2019	17	0.3%	22	0.4%	0	0.0%	39	0.7%
2000 to 2009	95	1.6%	87	1.5%	123	2.1%	305	5.2%
1990 to 1999	234	4.0%	66	1.1%	47	0.8%	347	5.9%
1980 to 1989	242	4.1%	120	2.0%	0	0.0%	362	6.2%
1970 to 1979	875	14.9%	271	4.6%	70	1.2%	1216	20.7%
1960 to 1969	630	10.7%	240	4.1%	95	1.6%	965	16.4%
1950 to 1959	1147	19.5%	156	2.7%	88	1.5%	1391	23.7%
1940 to 1949	360	6.1%	32	0.5%	43	0.7%	435	7.4%
1939 or earlier	549	9.3%	164	2.8%	107	1.8%	820	13.9%
Total	4,149	70.6%	1,158	19.7%	573	9.7%	5,880	100%
Median Year Built	1969		1960		(X)		1963	

Sources: Table B25036, Table B25037, and Table DP04, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

As shown in Table 6, over half of all housing units in Pennsville contain three (3) bedrooms or more. In comparison to the County and State, Pennsville has a much higher percentage of three-bedroom units and a lower percentage of one-, two- to four-bedroom units. The share of no-bedroom (studio) units and five-bedroom units are relatively consistent across the Township, County, and State.

Table 6. Number of Bedrooms per Housing Unit, 2023

Bedrooms per Unit	Units	Percent
Efficiency (Studio)	205	3.5%
1 Bedroom	714	12.1%
2 Bedrooms	1,209	20.6%
3 Bedrooms	2,713	46.1%
4 Bedrooms	765	13.0%
5+ Bedrooms	274	4.7%
Total	5,880	100%

Source: Table DP04, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

Table 7 shows the value of owner-occupied housing units in 2013 and 2023. The median home value in the Township increased from \$168,000 to \$193,300. Only 392 units had a value of under \$100,000 in 2023, a significant drop from 690 units in 2013. In what may be evidence of the pandemic-induced increase in demand for residential real estate outside of major metropolitan areas, in 2013 only 32.1% of all owner-occupied homes in the Township were valued at \$200,000 or more; by 2023, that had grown to 47.1%. In 2013, no homes had a value of \$1,000,000+, by 2023 that number had jumped to 57 units.

Table 7. Value of Owner-Occupied Housing Units, 2013 and 2023

Housing Unit Value	2013		2023	
	Units	Percent	Units	Percent
Less than \$50,000	277	6.7%	195	4.7%
\$50,000 to \$99,999	413	10.0%	197	4.7%
\$100,000 to \$149,999	879	21.4%	916	22.1%
\$150,000 to \$199,999	1,222	29.7%	888	21.4%
\$200,000 to \$299,999	907	22.0%	1,372	33.1%
\$300,000 to \$499,999	287	7.0%	440	10.6%
\$500,000 to \$999,999	129	3.1%	84	2.0%
\$1,000,000 or more	0	0.0%	57	1.4%
Total	4,114	100%	4,149	100%
Median Value	\$168,000		\$193,900	

Sources: Table Dp04, U.S. Census Bureau, 2009-2013 American Community Survey Five-Year Estimates; Table Dp04, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates.

Table 8 shows gross rent estimates in Pennsville Township and Salem County for 2023. The median rent in Pennsville (\$1,225) was slightly more than the median rent of Salem County (\$1,185). Approximately 30.2% of renter-occupied units in the Township have rents between \$500 and \$999.

Table 8. Gross Rent by Housing Unit, 2023

Gross Rent	Pennsville Township		Salem County	
	Units	Percent	Units	Percent
Less than \$500	120	10.4%	790	11.1%
\$500 to \$999	229	19.8%	1,507	21.1%
\$1,000 to \$1,499	567	49.0%	2,817	39.4%
\$1,500 to \$1,999	184	15.9%	1,042	14.6%
\$2,000 to \$2,499	30	2.6%	398	5.6%
\$2,500 to \$2,999	0	0.0%	36	0.5%
\$3,000 or More	4	0.3%	196	2.7%
No rent paid	24	2.1%	357	5.0%
Total	1,158	100%	7,143	100%
Median Rent	\$1,225		\$1,185	

Source: Table DP04, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

Generally, housing is considered affordable if the costs of rents, mortgages, and other essential housing costs consume 28% or less of an owner-household's income or 30% or less of a renter-household's income. Table 9 shows the percentage of income spent on housing costs by households of owner-occupied and renter-occupied units in Pennsville. An estimated 39.1% of all households in the Township spend more than 30% of their income on housing costs. Specifically, nearly three-fourths of all tenants and a third of homeowners in the Township are cost-burdened.

Table 9. Housing Affordability, 2023

Monthly Housing Costs as Percent of Income	Owner-Occupied		Renter-Occupied		All Occupied	
	Units	Percent	Units	Percent	Units	Percent
Less than 20 Percent	1,649	31.1%	205	3.9%	1,854	34.9%
20 to 29 Percent	1103	20.8%	199	3.7%	1,302	24.5%
30 Percent or More	1351	25.5%	726	13.7%	2,077	39.1%
Not Computed	46	0.9%	28	0.5%	74	1.4%
Total*	4,149	78.2%	1,158	21.8%	5,307	100%
*Remainder of occupied units have zero or negative income and/or no cash rent.						

Source: Table DP04, 2019-2023 American Community Survey Five-Year Estimate

Though the definition of deteriorated housing has evolved over several iterations of the State's affordable housing regulations, the currently accepted criteria for determining

whether a housing unit is in deficient state are as follows: (1) the unit is overcrowded (contains more than one person per room) and is more than 50 years old, (2) the unit has in-adequate plumbing, or (3) the unit has inadequate kitchen facilities. While Table 10, Indicators of Deficiency, 2023, shows the percentage of units meeting each criterion, it should not be interpreted as reflecting the Township's rehabilitation obligation, as it does not account for double counting units containing more than one indicator of deficiency and it only shows overcrowding in units built prior to 1950 instead of 1973, due to constraints in available data tables. As of 2023, there were 4 units in the Township having deficient plumbing, 55 units with inadequate kitchen facilities, 9 units that were considered overcrowded and were built prior to 1950, and 3,622 units built 50+ years ago (68.2% of the units in the Township).

Table 10: Indicators of Housing Deficiency, Occupied Housing Units, 2023

Indicator	Units	Percent*
50+ Years Old**	3,622	68.2%
Incomplete Plumbing	4	0.1%
Incomplete Kitchen	55	1.0%
Crowded or Overcrowded and Built pre-1950	9	0.2%
Total Occupied Units	5,307	100%
* Indicator criteria are not mutually exclusive. Units may meet more than one indicator of housing deficiency. ** Includes all units built prior to 1973.		

Source: Tables B25050, DP04, 2019-2023 American Community Survey Five-Year Estimate

POPULATION CHARACTERISTICS

Table 11 shows a comparison of population changes by census year in Pennsville Township and Salem County. The population in Pennsville has slightly declined since 2000 (-3.9%), going from 13,409 residents to 12,684. Salem County population remained relatively stable during the same period, rising by just 556 residents. In contrast, New Jersey's population has risen by 9.4% since 2000.

Table 11. Population Growth, 2000 to 2020

Location	2000	2010	2020	2000-2010 Change	2010-2020 Change	2000-2020 Change
Pennsville	13,194	13,409	12,684	-1.6%	-5.4%	-3.9%
Salem County	64,285	65,983	64,841	2.6%	-1.7%	0.9%
New Jersey	8,414,35	8,791,894	9,288,994	4.3%	5.4%	9.4%

Source: U.S. Census 2000, 2010, 2020

Table 12 shows Township population estimates for each age cohort in 2013 and 2023. While the total population has declined just slightly, the distribution among age groups has shifted dramatically. Between 2013 and 2023, the number of children and teenagers between ages 10-14 grew 31.9%, the number of adults aged 25-34 grew 29.2% and the population of residents aged 75 to 84 grew over 70%. Due to these population shifts, the median age in Pennsville has decreased from 43.6 in 2013 to 42.2 in 2023.

Table 12. Age Distribution, 2013 and 2023

Age in Years	2013		2023		Percent Change 2013-2023
	Population	Percent	Population	Percent	
Under 5	864	6.5%	664	5.2%	-23.2%
5 to 9	744	5.6%	669	5.3%	-10.1%
10 to 14	659	5.0%	869	6.8%	31.9%
15 to 19	759	5.7%	746	5.9%	-1.7%
20 to 24	817	6.1%	748	5.9%	-8.5%
25 to 34	1,410	10.6%	1,822	14.3%	29.2%
35 to 44	1,753	13.2%	1,155	9.1%	-34.1%
45 to 54	2,150	16.2%	1,563	12.3%	-27.3%
55 to 59	1,005	7.6%	932	7.3%	-7.3%
60 to 64	924	6.9%	974	7.7%	5.4%
65 to 74	1,504	11.3%	1,425	11.2%	-5.3%
75 to 84	499	3.7%	849	6.7%	70.1%
85+	222	1.7%	293	2.3%	32.0%
Total	13,310	100%	12,709	100%	-4.5%
Median Age	43.6 Years		42.2 Years		(X)

Source: Table DP05, U.S. Census Bureau, 2009-2013 American Community Survey Five-Year Estimates; Table DP05, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

HOUSEHOLD CHARACTERISTICS

The U.S. Census Bureau defines a household as those persons who occupy a single room or group of rooms constituting a housing unit; however, these persons may or may not be related. While the total number of households slightly declined from 2013 to 2023 in Pennsville (5,645 to 5,307), the average household size slightly increased from 2.36 to 2.39 persons per household.

Table 13. Household Size of Occupied Units, 2013-2023

Household Size (Persons per Household)	2013		2023	
	Households	Percent	Households	Percent
1 Person	1,835	32.5%	1,835	34.6%
2 Persons	1,773	31.4%	1,791	33.7%
3 Persons	892	15.8%	709	13.4%
4+ Persons	1,146	20.3%	972	18.3%
Total	5,645	100%	5,307	100%
Average Household Size	2.36		2.39	

Sources: Table S2501, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates

Table 14 shows household and family composition in Pennsville. 38% of households are married couples, and approximately one-third of married couples have children. Female householders with no spouse present (14.4%) were more represented in Pennsville than male householders with no spouse present (6.5%).

Table 14. Household Composition, 2023

Household Type	Households	Percent of Total
Family households	3,127	58.9%
Married-couple household	2,017	38%
With Children Under 18	641	12.1%
Male householder, no spouse present	347	6.5%
With Children Under 18	154	2.9%
Female householder, no spouse present	763	14.4%
With Children Under 18	413	13.4%
Nonfamily households	2,180	41.1%
Householder living alone	999	18.8%
Total Households	5,307	100%

Source: Table DP02, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

When the number of bedrooms in a unit (from Table 6 above) is considered vs. the size of households in Pennsville, there appears to be a mismatch: There are many more smaller households (three people or fewer; 81.7% of all households) than there are smaller units (one or two bedrooms; 36.2% of all units). Approximately 63.8% of all units have three or more bedrooms. This comparative shortage of smaller homes may be forcing some empty nesters and young adults without children to consider other

locations when seeking smaller-sized housing, or to occupy housing that is larger than their needs. Table 15 provides more detail.

Table 15. Unit Size vs. Household Size, 2023

Unit Size	Number of Units	Percent of Total Units	Household Size	Number of Households	Percent of Total Households
0 or 1 bedroom	919	15.6%	1 Person	1,835	34.6%
2 bedrooms	1,209	20.6%	2 Persons	1,791	33.7%
3 bedrooms	2,713	46.1%	3 Persons	709	13.4%
4 or more bedrooms	1,039	17.7%	4+ Persons	972	18.3%
Total	5,880	100.0%	Total	5,307	100%

Source: Tables DP04 and S2501, 2019-2023 American Community Survey Five-Year Estimate

INCOME CHARACTERISTICS

Households and families in Pennsville have slightly lower incomes than Salem County as a whole. Median income in 2023 in Pennsville was \$74,219 for households and \$91,495 for families. Comparable figures for the County were \$78,412 for households and \$96,968 for families. Table 16, Household Income by Income Brackets, 2023, further illustrates these findings.

Table 16. Household Income by Income Bracket, 2023

Household Income	Households	Percent
Less than \$10,000	218	4.1%
\$10,000-\$14,999	170	3.2%
\$15,000-\$34,999	865	16.3%
\$35,000-\$49,999	494	9.3%
\$50,000-\$74,999	939	17.7%
\$75,000-\$99,999	780	14.7%
\$100,000-\$149,999	1,061	20.0%
\$150,000 or more	780	14.7%
Total	5,307	100%
Median Household Income	\$74,219	

Source: Table S1901, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates

Table 17 provides a comparison of estimated poverty rates in Pennsville Township, Salem County, and the whole of New Jersey. The poverty rates among families and individuals in Pennsville is 8.6% and 12.3%, respectively. While the Township’s poverty rate among individuals is slightly lower than the County (12.8%), the family poverty rate in Pennsville is over double than the County (4%). The statewide poverty rate among families and individuals is slightly higher at 7.0% and 9.8%, respectively.

Table 17. Poverty Rates among Individuals and Families, 2023

Location	Poverty Rate, Family	Poverty Rate, Individuals
Pennsville Township	8.6%	12.3%
Salem County	4.0%	12.8%

Source: Table DP03 Selected Economic Characteristics, ACS 20019-2023

EMPLOYMENT CHARACTERISTICS

The U.S. Census Bureau’s Center for Economic Studies tracks covered employment, which includes only those jobs for which unemployment compensation is paid. By definition, it does not cover the self-employed, unpaid family workers, most part-time or temporary employees, and certain agricultural and in-home domestic workers.

The largest industrial sectors in the Township, “Educational services, and health care and social assistance,” employed 19.2% of all residents in the labor force in 2022. The next largest sectors were “Transportation, Warehousing, and Utilities”, “Retail Trade”, and “Manufacturing”, respectively employing 16.9%, 12%, and 9.9% of the employed labor force.

Table 18. Covered Employment by Sector, 2022

NAICS Industry	Employed Residents	Percent
Agriculture	10	0.2%
Construction	402	7.0%
Manufacturing	570	9.9%
Wholesale Trade	292	5.1%
Retail Trade	692	12.0%
Transportation and Warehousing, And Utilities	976	16.9%
Information	36	0.6%
Finance and Insurance, and Real Estate and Rental and Leasing	347	6.0%
Professional, Scientific, and Management, and Administrative and Waste Management Services	459	7.9%
Educational Services, and Health Care and Social Assistance	1,111	19.2%

NAICS Industry	Employed Residents	Percent
Arts, Entertainment, and Recreation, and Accommodation And Food Services	360	6.2%
Other Services, Except Public Administration	140	2.4%
Public Administration	380	6.6%
Civilian employed population 16 years and over	5,775	100%

Source: OnTheMap, Center for Economic Studies, U.S. Census Bureau, 2022.

A municipality's jobs-housing ratio is a rough indicator of the degree to which the municipality has been able to generate sufficient housing to accommodate its workers. A ratio of between 0.75 and 1.5 is generally considered to indicate a healthy balance between the number of jobs in a municipality and the municipality's ability to house all its workers who wish to live there. The ability to house workers locally enables them to spend less time commuting, reduces traffic congestion, and reduces the greenhouse gas emissions associated with commuting by automobile.

Based on Tables 4 and 18 above, Pennsville has a jobs-housing ratio of .98, within the range considered healthy. If additional jobs in the Township become available, the Township may need to examine whether it needs to take steps to encourage additional housing.

POPULATION, EMPLOYMENT, AND HOUSING PROJECTIONS

The South Jersey Transportation Planning Organizations ("SJTPO") is the Metropolitan Planning Organization ("MPO") for the Southern New Jersey region, which contains all municipalities in Atlantic, Cape May, Cumberland, and Salem counties. The SJTPO publishes population and employment forecasts for each county and municipality in the region. Between 2020 and 2050, the SJTPO projects that Pennsville's population will decrease by less than a percent and Pennsville's employment will increase 15.4%. As shown in Table 19, the Township's projected population decline is expected to be similar to the County. Employment growth in the Township is expected to be slightly less than the County growth rate of 21.2%.

Table 19. Population and Employment Projections, 2020 to 2050

	Population			Employment		
	Estimate 2020	Projected 2050	Percent Change	Estimate 2020	Projected 2050	Percent Change
Pennsville	12,700	12,600	-0.79%	3,900	4,500	+15.4%
Salem County	64,800	64,300	-0.77%	27,400	33,200	+21.2%

Source: South Jersey Transportation Planning Organization, Municipal and County-Level Population and Employment Forecasts, 2020-2050

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of certificates of occupancy, development applications approved, probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). In Pennsville Township between the years 2013 through 2023, the number of certificates of occupancy issued for residential construction was 1.3 units per year on average, and the number of demolition permits included 7.7 per year on average. As a result, the Township has lost 6.5 net units per year. Based on trends over the past 10 years, Pennsville could expect to lose approximately 65 housing units by the year 2033. See Table 20, Housing Projections to 2033.

Table 20. Housing Projections to-2033

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	1	6	-5
2014	1	6	-5
2015	1	7	-6
2016	1	7	-6
2017	0	18	-18
2018	6	6	0
2019	3	6	-3
2020	0	9	-9
2021	0	9	-9
2022	0	7	-7
2023	1	4	-3
Total	14	85	-71
Annual Average	1.3	7.7	-6.5
Ten Year Projection (2024-2033)			-65

Source: NJDCA Construction Reporter, Building Permits, Yearly Summary Data

CONSIDERATION OF LAND FOR AFFORDABLE HOUSING

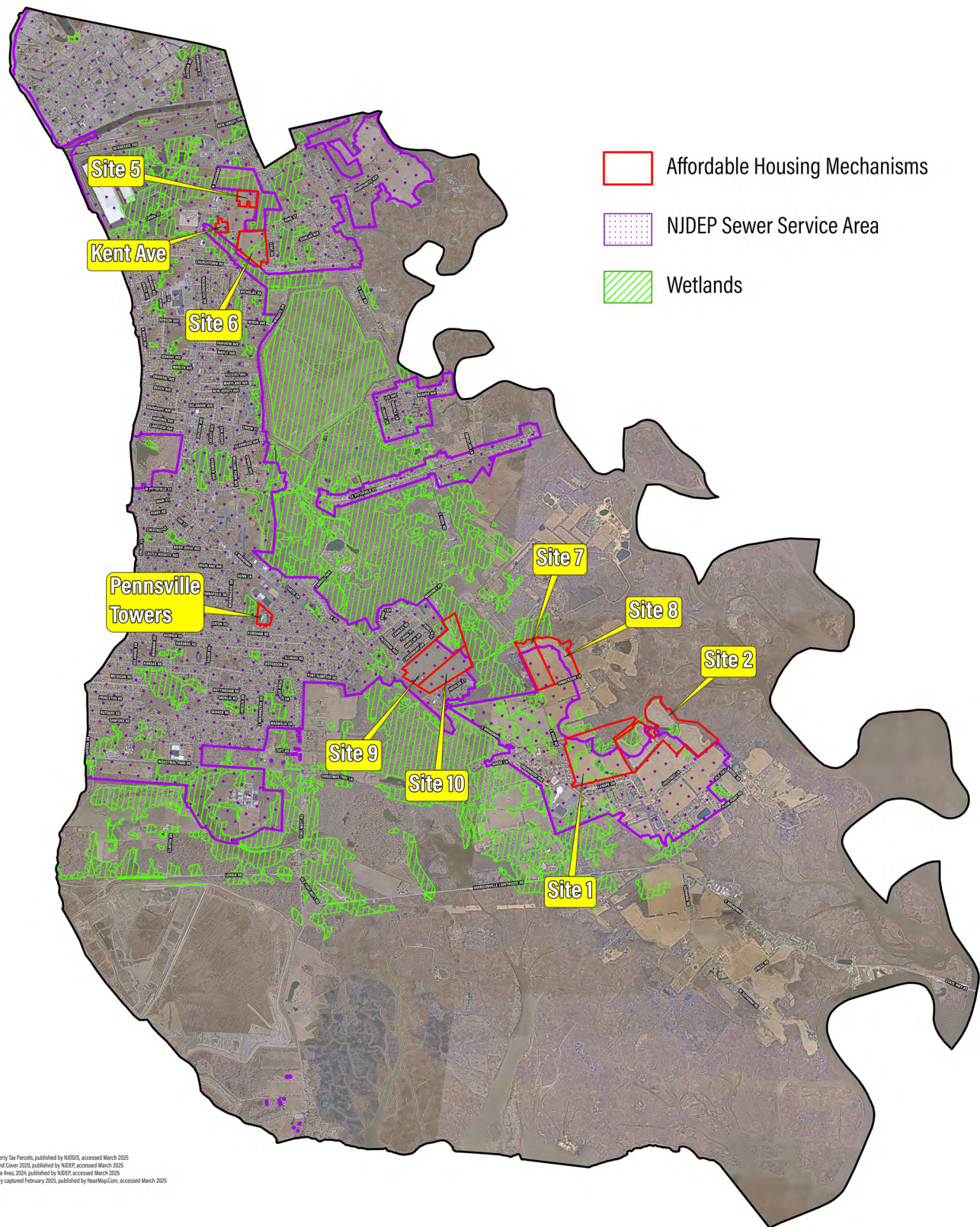
Land available for the construction of affordable housing in Pennsville is limited by environmental constraints, such as the presence of wetlands, that are pervasive throughout much of the Township. Available land appropriate for affordable housing is further subject to the limited additional firm water and sewer capacity approved by DEP and by the Township's fiscal capabilities to address excess demand beyond the existing capacity of this infrastructure.

Pennsville Township has considered all land and, as such, the Township believes that the sites/mechanisms proposed in this document continue to represent the best

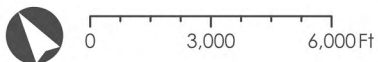
options for future affordable housing production through inclusionary development due to environmental constraints and the fiscal and infrastructure capacity limitations as described below. In addition to two (2) existing 100% affordable housing developments, Pennsville will continue to intersperse affordable housing throughout the Township by using eight (8) inclusionary zoning sites, known as Sites #1, #2, #5, #6, #7, #8, #9 (turned into new Site #9 and new Site #10). With these eight (8) sites, Pennsville is purposefully siting possible future inclusionary developments.

Pennsville Township's request for a durational adjustment of a portion of its Third Round obligation of 234¹⁵ was previously agreed to by FSHC, as documented in the 2016 settlement agreement, and was approved by the Court in an Order dated January 27, 2017. This January 27, 2017 Order also ruled that the Township shall not "be required to amend its compliance plan to provide additional inclusionary zoning pursuant to N.J.A.C. 5:93-4.3(c) other than the nine (9) existing and proposed inclusionary zoning sites denoted in the (2016 FSHC) Agreement." Subsequently, the Township entered into the 2024 amended settlement with FSHC, also approved by the Superior Court by Order dated January 3, 2025, which approved the elimination of two (2) of the previous nine (9) inclusionary sites and the reconfiguration of one (1) inclusionary site. Therefore, Pennsville Township's inclusionary housing shall be limited to the eight (8) remaining sites, as these sites remain sufficient to address the balance of the Township's Third Round obligation and the balance of its Fourth Round obligation.

¹⁵ The Township's Third Round obligation was initially established at 376, however, was ultimately reduced by the Court to 234, as documented in the 2017 Third Round JOR.



Sources:
 - MCO-IV Property Tax Parcels, published by NJDEP, accessed March 2025
 - Land Use/Land Cover 2020, published by NJDEP, accessed March 2025
 - Sewer Service Area, 2024, published by NJDEP, accessed March 2025
 - Aerial imagery captured February 2025, published by NewMap.com, accessed March 2025



Clarke Caton Hintz



Architecture

Planning

Landscape Architecture

FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

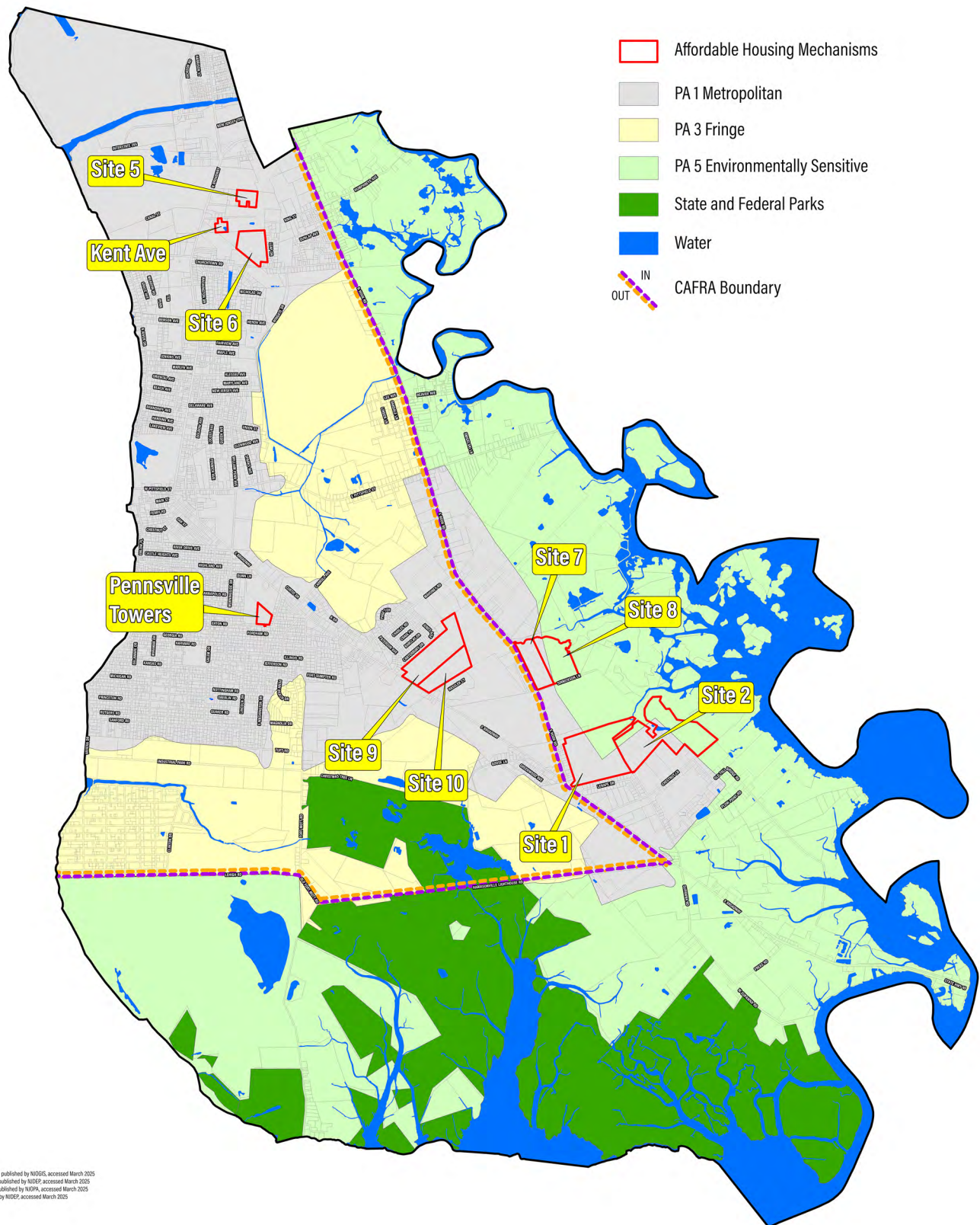
Environmental Constraints and Sewer Service Area

LOCATION:

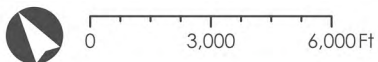
Pennsville Township, Salem County, New Jersey

DATE:

May 22 2025



Sources:
 • NODAP Property Tax Parcels, published by NODAP, accessed March 2025
 • Land Use/Land Cover 2020, published by NODAP, accessed March 2025
 • 2001 State Planning Areas, published by NODAP, accessed March 2025
 • CAFRA Boundary, published by NODAP, accessed March 2025



Clarke Caton Hintz



Architecture

Planning

Landscape Architecture

FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

2001 State Planning Areas

LOCATION:
 Pennsville Township, Salem County, New Jersey

DATE:
 May 22 2025

Environmental Constraints and State Plan Policy Map

As shown on the maps on the prior pages, the Township previously considered environmental constraints and the State Plan Policy Map in identifying inclusionary zoning sites to address its Prior Round, Third Round, and now Fourth Round obligations. Pennsville Township is home to a number of important natural resources including Killcohook National Wildlife Refuge, the Supawna Meadows National Wildlife Refuge, and Fort Mott State Park. In addition to these resources, the Township is significantly impacted by wetlands according to DEP's wetlands mapping. As noted in the December 2002 Pennsville Land Use Element, wetlands and water comprise 57% of the Township's land, or approximately 9,027 acres. With the exception of the developed areas along Hook Road and South Broadway, everything south and west of the residential neighborhoods in Pennsville is wetlands or water.

The State Plan Policy Map classifies Pennsville Township in three (3) different planning areas: the Metropolitan Planning Area, PA 1; the Fringe Planning Area, PA 3; and the Environmentally Sensitive Planning Area, PA 5. The northern portion of Lighthouse Road and the area adjacent to Hook Road are classified as PA 1 and PA 3. The southern portion of Lighthouse Road and east of Hook Road are PA 5. Moreover, the State Plan Policy Map also shows a portion of federal parkland and Fort Mott State Park located within the Township. In addition, the southern and eastern portions of the Township are subject to the state's Coastal Area Facility Review Act ("CAFRA").

Many of Pennsville Township's inclusionary zoning sites are located along South Broadway and have access to public transportation via NJ Transit's bus route 468, which runs between Woodstown and Carneys Point. These locations support the SDRP's policy objectives to promote alternatives to single-occupancy vehicles and maintain a rural transportation network that connects Metropolitan, Suburban, and Fringe Planning Areas. In addition, the Township's HEFSP aligns with its stormwater management efforts by siting affordable housing within the Metropolitan Planning Area, where infrastructure is already in place. This approach advances SDRP goals of encouraging responsible growth while protecting water resources. As outlined in its 2024 Stormwater Pollution Prevention Plan,¹⁶ Pennsville is also actively mapping MS4 infrastructure and watershed data to guide informed land use decisions.

Availability of Existing Infrastructure

As set forth in detail in the 2024 Court-approved settlement agreement with FSHC (included in Appendix B), Pennsville Township has very little water capacity remaining for future development. The Township's water capacity is limited by a Water Allocation Permit issued by DEP, which the Township does not expect to be expanded under any circumstances. As noted above, the Court approved the Township's request for a

¹⁶ Stormwater Pollution Prevention Plan, dated 7, 2024. Accessed May 2025 via https://www.pennsville.org/download/forms_library/stormwater_management/stormwater_pollution_prevention/Pennsville-Township-Stormwater-Pollution-Prevention-Plan-June-2024.pdf.

durational adjustment of a portion of its Third Round obligation in a Court Order dated January 27, 2017 (Appendix B). Per the 2016 settlement agreement with FSHC, the Township reserved water capacity for 55 affordable units to address the balance of its affordable obligation for the Prior Round (time period 1986-1999). As discussed in more detail in the 2024 FSHC settlement, the total water usage reserved for the aforementioned 55 affordable units (20% of a total of 275 housing units) is 82,500 gallons per day (“gpd”) based on 275 total units x 300 gpd = 82,500 gpd.

As documented in the 2024 amended FSHC settlement agreement, Pennsville recalculated its excess water capacity by averaging its peak demand months for 2020 (June), 2021 (August), 2022 (August), and 2023 (June), subtracting that from its current monthly allocation, and subtracting from that difference the anticipated demands for unfinished projects for which water allocation has been approved. The analysis starts in “gallons per month” and ends in “gallons per day” as monthly usage is what is monitored and regulated by DEP, and daily usage is what is customarily used by the Township representatives, developers and non-DEP professionals.

Table 21. Estimated Remaining Water Capacity

Average Peak Demand 2020-2023	Current Monthly Allocation	Excess Monthly Allocation	Monthly Demand for Approved Projects	Excess Capacity Gallons per Day
47,295,000 gpm	54,250,000 gpm	6,955,000 gpm	6,020,000 gpm	30,161 gpd

Gallons per Month (“gpm”); Gallons per Day (“gpd”)

According to Township officials, the 30,161 gpd figure is the maximum remaining capacity and much of the remaining capacity is already allocated. A higher-than-average month would result in DEP fines and penalties if a proper allocation buffer is not maintained. The Township shall maintain an allocation buffer of at least 15,080 gpd. Again, as noted in the 2024 FSHC settlement, the “anticipated demands” consist primarily of the following significant projects:

Table 22. Anticipated Water Demands of Significant Projects

Project	Total Housing Units	Water Usage per Unit	Total Water Usage
Warehouse	N/A	N/A	50,000 gpd
Pennsville Towers Phase II	100 Senior 1-BR	200 gpd	20,000 gpd
Sites #3 and #4	125 Market	300 gpd	37,500 gpd
Total			107,500 gpd

As documented in the Court-approved 2024 FSHC settlement agreement and detailed in the following section of this HEFSP, the Township anticipates two potential

affordable housing development scenarios for “new Site #10,” allowing for either a 60-unit 100% affordable development or an inclusionary development producing 20% affordable units on this site. The Township’s water allocation under either scenario is as follows:

- **Scenario 1.** If new Site #10 is developed as a 100% affordable housing development, the Township’s 275-unit water reservation will be allocated as follows: capacity for 60 units will be allocated to the 100% affordable development on new Site #10; capacity for 150 units (with at least 30 affordable units at a 20% affordable housing setaside) will be reserved for one of the other inclusionary zoning sites on a first-come first-served basis; and the Township may use the remaining 65-unit capacity ($275 - 60 - 150 = 65$) in any manner it sees fit.
- **Scenario 2.** If predominantly outside funding sources are not secured for a 100% affordable development on new Site #10, then the Township’s entire water capacity reservation for 275 total / 55 affordable units will remain in place and available to the first inclusionary developer that utilizes some or all of it. These 55 inclusionary affordable units will be used to address the 55-unit balance of the Township’s Prior Round obligation.

Pennsville Township also has limited sewer capacity for future development as set forth in the 2016 Court-approved settlement agreement with FSHC and subsequently in the 2017 Court-approved Third Round HEFSP. Per the 2016 FSHC settlement agreement, the Township reserved not only water capacity but also sewer capacity for 55 affordable units to address the balance of its affordable obligation for the Prior Round (time period 1986 - 1999). In the Township’s 2017 Third Round Plan, the Pennsville Sewer Authority Engineer noted that based on the 55 affordable units to address the Township’s remaining Prior Round obligation (and the corresponding inclusionary market-rate units), there was sufficient capacity to support the proposed inclusionary development although there were some constraints to the sewer system’s capacity.

Since 2012, in addition to regular maintenance, the Authority has also addressed constraints to the system’s capacity by instituting specific infrastructure projects. For instance, as part of DEP’s Capacity Assurance Program (“CAP”) instituted after 2012, the Pennsville Sewer Authority has implemented a series of infrastructure projects to limit inflow and infiltration (“I&I”) of stormwater into the sanitary sewer mains/pipes by lining sewer mains/pipes.

Generally, we understand that since the Court’s December 2017 approval of the Pennsville Third Round HEFSP, there has been no significant development in the Township that generated substantial sewer capacity flows. Although a full sewer system analysis would be needed at this time for specific sewer system details (similar to the 2017 sewer study), it is reasonable to find that per the 2017 Court-ordered sewer

capacity reservation for 55 affordable units (plus the corresponding market units), the Township continues to have sufficient sewer system capacity to address the balance of its affordable obligation for the Prior Round. Also, per the Court-approved durational adjustment, inclusionary developers would be required to analyze and, if needed, finance any necessary upgrades to the Township's sanitary sewer infrastructure, due to the Township's limited fiscal ability to fund such sewer system infrastructure upgrades

FAIR SHARE PLAN

Affordable Housing Obligations

The four components to a municipality's affordable housing obligation include: the Fourth Round Present Need obligation, also known as the "Rehabilitation Share," the Prior Round obligation, the Third Round obligation, and the Fourth Round Prospective Need obligation. The terms "Present Need" and "Rehabilitation Share" are used interchangeably. Present Need resets with each round of affordable housing based on census data as to the number of deficient housing units existing at the beginning of that round that potentially are occupied by low- and moderate-income households. The obligation in the Prior Round, Third Round, and Fourth Round is also known as "Prospective Need" which refers to the provisions of affordable housing including through new construction necessary to address the demand for housing based on regional population growth. Lastly, given the convoluted history of the Third Round from 1999-2025, the Third Round obligation includes both the 'Gap' Need obligation (1999-2015) and the Third Round Prospective Need obligation (2015-2025).

Rehabilitation Obligation (Fourth Round Present Need)

The FHA, as amended by P.L. 2024, c.2, defines *present need* as "the number of substandard existing deficient housing units currently occupied by low- and moderate-income (LMI) households" and *deficient housing unit* as "housing that (1) is over fifty years old and overcrowded, (2) lacks complete plumbing, or (3) lacks complete kitchen facilities." The Township's Fourth Round rehabilitation obligation of 69 units was calculated by DCA according to the methodology described in the report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background* and released in October 2024. As part of its Fourth Round DJ filing, the Township adopted a resolution in January 2025 adopting the DCA rehabilitation obligation of 69, which the Court affirmed by Order dated April 28, 2025.

Prior Round Obligation

The Prior Round obligation is the cumulative prospective need obligation also known as the 'new construction' obligation for the First and Second Rounds (1987 to 1999). Pennsville Township's 228 Prior Round Need was calculated by COAH per N.J.A.C.

5:93 and is reflected in the Township’s Court-approved 2016 Third Round settlement agreement and 2024 amended Third Round settlement agreement with FSHC.

Third Round Obligation

The Third Round obligation includes the “gap” portion of the Third Round (1999-2015) when no valid affordable housing regulations were in force and the Third Round Prospective Need (2015-2025), which included a projection 10 years into the future starting in July 2015. Pennsville Township’s Third Round obligation (1999-2025) was established as 376 in the Township’s 2016 settlement agreement with FSHC, however, was ultimately reduced by the Court to 234, as documented in the 2017 Third Round JOR (Appendix A).

Fourth Round Prospective Obligation

The amended FHA defines *prospective need* as “a projection of housing needs based on development and growth which is reasonably likely to occur in a region or municipality” The Township’s Fourth Round Prospective Need of 46 was also calculated by DCA according to the methodology described in its October 2024 report and agreed to by the Township in its Fourth Round DJ filing. The Court affirmed the Township’s Fourth Round Prospective Need of 46 by Order dated April 28, 2025.

Fair Share Plan Scenario 1 and Scenario 2

As documented in the Court-approved 2024 amended settlement agreement between Pennsville Township and FSHC, two inclusionary zoning sites previously included in the Township’s Third Round HEFSP – Site #3 and Site #4 – have been eliminated as inclusionary sites and as such will no longer produce affordable units but rather will generate a 1.5% residential affordable housing development fee on each market-rate housing unit, as required by the Township’s Development Fee Ordinance. Sites #3 and #4 were to have produced a combined 53 potential affordable units.

The amended FSHC settlement agreement further explains that Block 4201, Lot 17 (now referenced as “former Site #9”) was recently subdivided by the owner into two tracts: Block 4201, Lot 17 (new Site #9) and Block 4201, Lot 17.01 (new Site #10). Former Site #9 was designated in the Township’s Third Round HEFSP to permit mixed-use multifamily (30%) and commercial (70%) development with an anticipated yield of 24 affordable housing units. The Township intends to reconfigure the prior mixed-use inclusionary zoning on former Site #9 and use new Sites #9 and #10 to replace the 77 affordable units that had previously been planned on Sites #3 and #4 (53 units) and the former Site #9 (24 units).

In order to replace the 77 affordable units, the Township agreed to amend its 2017 Third Round HEFSP and to adopt an affordable housing zoning ordinance that would

allow a full inclusionary residential development on new Site #9 and two potential development options on new Site #10 as part of the 2024 Amended FSHC Settlement.

The Court approved the 2024 FSHC amended Agreement at a Fairness Hearing on December 18, 2024, as reflected in the Court's January 3, 2025 Order. Ultimately, as this Fourth Round HEFSP is a cumulative plan which is required to address the Township's means to address the Prior Round, Third Round and now Fourth Round, the required Third Round plan amendment is reflected in this Fourth Round HEFSP. Once adopted, this Fourth Round HEFSP will provide master plan consistency for the Township to now formally take action to adopt an affordable housing zoning ordinance that would allow a full inclusionary residential development on new Site #9 and two potential development options on new Site #10 (inclusionary residential and 100% affordable), which are hereafter referred to as "Scenario 1" and "Scenario 2":

- **Scenario 1.** New Site #10 will be developed with a 100% affordable development of 60 family affordable rental units; and the balance of new Site #10 will be permitted to develop with commercial uses. New Site #9 will be permitted to fully develop as an inclusionary residential development with a maximum of 150 units, 30 of which are affordable. As stated above, the Township has reserved water and sewer capacity sufficient for 275 total housing units. Therefore, in Scenario 1, the Township will allocate capacity for 60 units to the 100% affordable development on new Site #10; capacity for 150 units (with at least 30 affordable units) will be reserved for one of the other inclusionary zoning sites on a first-come first-served basis; and the Township may use the remaining 65-unit capacity ($275 - 60 - 150 = 65$) in any manner it sees fit.
- **Scenario 2.** If an experienced tax credit developer's efforts are unsuccessful to secure primarily outside funding for a 100% affordable rental development, then the entirety of new Site #10 will be permitted to develop with an inclusionary development of 275 total units, 55 of which are affordable. New Site #9 will be permitted to develop with a maximum of 110 units, 22 of which are affordable (resulting in 77 total affordable units on both new Sites #9 and #10). In Scenario 2, the Township's entire water and sewer capacity reservation for 275 total / 55 affordable units will remain in place and available to the first inclusionary developer that utilizes some or all of it. These 55 inclusionary affordable units will be used to address the 55-unit balance of the Township's Prior Round obligation.

Scenario 1 and Scenario 2 result in two different means for how Pennsville Township will satisfy its Prior Round and Third Round obligations, which are illustrated in Tables 23 and 24. In Scenario 1, the 100% affordable development on new Site #10 will satisfy the remainder of the Township's Prior Round obligation and a portion of the Township's Third Round Obligation. The balance of the Third Round obligation will be addressed with 30 inclusionary units for which water and sewer capacity has been reserved and 99 units without reserved water capacity and are durationally adjusted.

In Scenario 2, the Township will address the 55-unit balance of the Prior Round obligation with 55 inclusionary units for which water and sewer capacity has been reserved and is available on a first-come first-served basis. A total of 167 of the Township's Third Round obligation of 234 will not have reserved water and sewer capacity and, thus, will be durationally adjusted.

In both Scenarios 1 and 2, the Township's Fourth Round obligation of 46 will be addressed with the proposed Pennsville Towers expansion (10 units and 10 bonuses), and the remaining obligation of 26 will not have reserved water and sewer capacity and also will be durationally adjusted.

**Table 23. Summary of Affordable Housing Credits/Bonuses –
with 100% Affordable development on New Site #10 (Scenario 1)**

228 Prior Round - Compliance Mechanisms	Credits	Bonus	Total
Prior Cycle Credits – 100% Affordable Rentals			
Pennsville Towers	99	–	99
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (41 of 86, capped)	41	–	41
Kent Avenue – Affordable Special Needs Rentals	14	14	28
Inclusionary Zoning Sites w/100% option on Site #10			
New Site #10 – 100% Affordable Family Rentals with reserved water capacity (41 of 60)	41	19	60
Total	195	33	228
234 Third Round - Compliance Mechanisms	Credits	Bonus	Total
100% Affordable Rentals – Completed			
Kent Ave – Affordable Senior Rentals (45 of 86, senior bal.)	45	9	54
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (13 of 60; cap)	13	–	13
Inclusionary Zoning Sites w 100% option on Site #10			
New Site #10 – 100% Affordable Family Rentals with reserved water capacity (19 of 60)	19	19	38
Sites #1, 2, 5, 6, 7, 8, or New Site #9 – Inclusionary Family Affordable Units with 150 total/30 affordable reserved water capacity, first-come first-served basis	30	–	30
Subtotal	107	28	135
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Site #9 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	99	–	99
Total	206	28	234
46 Fourth Round - Compliance Mechanisms	Credits	Bonus	Total
100% Affordable Rentals – Proposed			
Pennsville Tower Exp –100% Aff. Senior (10 of 47 bal.of 60; cap)	10	10	20
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	26	–	26
Total	36	10	46

**Table 24. Summary of Affordable Housing Credits/Bonuses –
without 100% Affordable development on New Site #10 (Scenario 2)**

228 Prior Round - Compliance Mechanisms	Credits	Bonus	Total
Prior Cycle Credits - 100% Affordable Rentals			
Pennsville Towers	99	–	99
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (41 of 86, capped)	41	5	46
Kent Avenue – Affordable Special Needs Rentals	14	14	28
Inclusionary Zoning Sites			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units with 275 total/55 affordable reserved water capacity, first-come first-served basis	55	–	55
Total	209	19	228
234 Third Round - Compliance Mechanisms	Credits	Bonus	Total
100% Affordable Rentals – Completed			
Kent Ave – Affordable Senior Rentals (45 of 86, senior bal.)	45	9	54
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (13 of 60; cap)	13	–	13
Subtotal	58	9	67
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	167	–	167
Total	225	9	234
46 Fourth Round - Compliance Mechanisms	Credits	Bonus	Total
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (10 of 47 bal., of 60; cap)	10	10	20
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	26	–	26
Total	36	10	46

MEANS OF ADDRESSING FOURTH ROUND PRESENT NEED/REHAB OBLIGATION

N.J.A.C. 5:93-1.3, defines a dwelling needing rehabilitation as, "...a housing unit with health and safety code violations that require the repair or replacement of a major system". Per N.J.A.C. 5:97, "Major systems" include weatherization, exterior cladding, window and door replacement, roofing, plumbing (water supply and sanitary), heating, electricity, lead paint abatement and load bearing structural systems.

Pennsville Township intends to partially address its rehabilitation obligation of 69 units by applying for funding through the DCA Small Cities CDBG program, which supports owner-occupied rehabilitations. Pennsville will also contribute funds from its affordable housing trust fund to support the rehabilitation of both renter- and owner-occupied deficient housing units. Appendix F includes a resolution documenting the Township's intent to apply for DCA Small Cities funding.

The Township's rehabilitation program will be administered by Triad Associates ("Triad"), the Township's experienced affordable housing rehabilitation program administrator, and will be available to both renter- and owner-occupied housing units. Pennsville has previously partnered with Triad to implement a local rehabilitation program. Appendix F also contains a copy of Triad's 2013 rehabilitation program manual for Pennsville, which will be updated as needed. According to Triad, previous efforts to market the rehabilitation program included information posted on the Township's website, flyers included with tax bills, and materials distributed at senior centers and churches.

The Township's rehabilitation program adheres to the regulations in N.J.A.C. 5:93-3.4. All new rehabilitated units will meet the applicable Uniform Construction Code requirements. Additionally, all rehabilitated units will be occupied by low- or moderate-income households and upon completion of the rehabilitation, affordability controls will be placed on the property in the form of a lien or deed restriction. All rehabilitations will have a minimum average hard cost of \$10,000.

SATISFACTION OF THE PRIOR ROUND OBLIGATION

As noted above, Pennsville Township's Prior Round obligation is 228. COAH's rules, contained at N.J.A.C. 5:93, permit affordable housing credits and bonuses to be applied toward affordable housing obligations for the Prior Round. The minimum number of affordable rental units¹⁷ and maximum number of age-restricted affordable units¹⁸ are established using the following formulas:

¹⁷ N.J.A.C. 5:93-5.15(a)

¹⁸ N.J.A.C. 5:93-6.1(b)1 - revised per COAH second round policy

Minimum Prior Round Rental Obligation = 33 units

- $0.25(228 - 99 \text{ prior cycle credits}) = 32.25$, round up.
- A rental unit available to the general public receives one rental bonus.
- No rental bonus is granted in excess of the Prior Round rental obligation.

Maximum Prior Round Age Restricted Units = 41 units

- $0.25(228 + 38) - 99 \text{ prior cycle credits} = 41.75$, round down. The Court approved 41 Prior Round senior rental credits.

As summarized in Table 25, Summary of 228 Prior Round Obligation Credits/Bonuses, 1987-1999, the Township has fully addressed its 228 obligation with Prior Cycle affordable rental credits, completed senior affordable rental and special needs affordable rental units, inclusionary zoning sites, and Prior Round rental bonuses.

Table 25. Summary of 228 Prior Round Obligation Credits/Bonuses, 1987-1999

Scenario 1. with 100% Affordable development on New Site #10	Credits	Bonus	Total
Prior Cycle Credits – 100% Affordable Rentals			
Pennsville Towers	99	–	99
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (41 of 86, capped)	41	–	41
Kent Avenue – Affordable Special Needs Rentals	14	14	28
Inclusionary Zoning Sites - w 100% option on Site #10			
New Site #10 – 100% Affordable Family Rentals with reserved water capacity (41 of 60)	41	19	60
Total	195	33	228
Scenario 2. <u>without</u> 100% Affordable development on New Site #10	Credits	Bonus	Total
Prior Cycle Credits - 100% Affordable Rentals			
Pennsville Towers	99	–	99
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (41 of 86, capped)	41	5	46
Kent Avenue – Affordable Special Needs Rentals	14	14	28
Inclusionary Zoning Sites			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units with 275 total/55 affordable reserved water capacity, first-come first-served basis	55	–	55
Total	209	19	228

Prior Cycle Credits: 100% Affordable Rentals – Completed

Pennsville Towers (Completed)

The Township is eligible for 99 Prior Cycle affordable housing credits from the Pennsville Towers Senior Apartments. Built in 1984, the apartment complex contains 99 affordable senior rental units that were funded through the Department of Housing and Urban Development's ("HUD") Section 202 program. The development is located at 40 Eaton Road (Block 3101, Lot 4).

The units at Pennsville Towers are owned by Foresight Affordable Housing, Inc. and administered by The Walters Group, an experienced developer and administrator of affordable units in New Jersey. Affordability controls are in effect through July 2031. All 99 units are age-restricted, low-income rental units. Appendix G contains a page from the development's Housing Assistance Payments contract with HUD confirming the affordability controls through 2031, the certificate of occupancy dated December 4, 1986, and a certificate of continued occupancy dated October 25, 2012.

The units at Pennsville Towers are considered 'Prior Cycle credits.' Pursuant to COAH's rules at N.J.A.C. 5:93-3.2, units constructed and occupied between April 1, 1980 and December 15, 1986 (prior to the enactment of the FHA) are eligible for a one-for-one credit. Further, Prior Cycle credits are initially subtracted prior to the calculation of the Township's age-restricted unit cap and are not eligible for rental bonuses.

100% Affordable Rental Units – Completed

Kent Avenue Senior/Special Needs Housing (Completed)

Kent Avenue Senior/Special Needs Housing (Block 501, Lot 19) is an existing 101-unit 100% affordable rental community that includes 86 affordable senior units, 14 special needs units, and one (1) unit for an onsite manager. The development was funded in part through the Federal Low Income Housing Tax Credit ("LIHTC") program, the Neighborhood Preservation Balanced Housing Home Express Program, and the Special Needs Housing Trust Fund. The 14 special needs units also received project-based rental assistance through the State Rental Assistance Program ("SRAP") of DCA and are eligible as very low-income units. To further facilitate the project, the Township granted the developer a PILOT (payment in lieu of taxes).

The units at the Kent Avenue received certificates of occupancy on January 30, 2008 and have 30-year affordability controls through 2038. All units were affirmatively marketed and are administered in accordance with the Federal LIHTC regulations and, where applicable, with COAH rules at N.J.A.C. 5:93 et seq. and the UHAC at N.J.A.C. 5:80-26.1. Ron Rukenstein & Associates, an experienced affordable housing provider, administers the Kent Avenue affordable units. With the exception of the very low-income 14 special needs units, all units at Kent Avenue are moderate-income units reserved for households with incomes at 60 percent or less of the median income.

Appendix H contains a copy of the deed restriction and the January 30, 2008 certificates of occupancy.

In accordance with the Prior Round senior cap calculated above, the Township may receive credit for 41 of the 86 existing affordable senior rental units and for all 14 of the affordable special needs rental units to apply towards its Prior Round obligation. The Township is eligible for five (5) rental bonuses from 16 of the 41 age-restricted units due to the cap on senior rental bonuses pursuant to N.J.A.C. 5:93-5.15(d)2 and 14 special needs rental bonuses pursuant to N.J.A.C. 5:93-5.15(d)1. The remaining 45 of 86 existing affordable senior rental units from the Kent Avenue development will be applied to the Township's Third Round obligation.

Inclusionary Zoning Sites

Pennsville Township will address portions of its Prior Round, Third Round, and Fourth Round obligations using eight (8) inclusionary zoning sites, known as Sites #1, #2, #5, #6, #7, #8, new Site #9, and new Site #10. The Township initially included Site #1 through Site #5 for proposed inclusionary zoning in an amended Second Round plan pursuant to COAH's Second Round rules at N.J.A.C. 5:93 et seq.; these sites were again included in the Township's 2005 and 2008 Third Round Plans. The five (5) sites were found by COAH to be available, suitable, approvable, and developable and were approved as part of the Township's 2009 Third Round substantive certification. The five (5) sites were formally rezoned for inclusionary housing on May 18, 2006.

Subsequent regulatory changes made by DEP impacted the developable area in Pennsville and reduced the yield from the Township's approved inclusionary zoning sites from 133 affordable units to 51 affordable units. Pursuant to the 2016 FSHC settlement, the Township addressed this shortfall by rezoning Site #1 through Site #5 to accommodate significantly higher densities and by adding four (4) additional inclusionary zoning sites, known as Site #6 through Site #9. The revised inclusionary zoning was documented in the Township's 2017 Third Round HEFSP which was approved by the court on December 19, 2017. The revised inclusionary zoning took effect on July 20, 2017 (Ordinance A-16-2017, included as Appendix D).

The 2024 FSHC amended settlement further revised Pennsville's plan for inclusionary zoning. Sites #3 and #4 will no longer be zoned for inclusionary development and instead will be replaced by reconfiguring the former mixed-use Site #9 into new Sites #9 and #10 with full inclusionary residential zoning on both sites and by permitting the options for either 100% affordable or inclusionary family housing on new Site #10.

Table 26, Summary of Inclusionary Zoning Sites, indicates the location of each of the eight (8) adopted inclusionary zoning sites, the current zone in which they are located, the proposed zoning district, the sites' total acreage, the estimated buildable acres, the proposed density as shown by units per acre, and the revised expected total units and affordable housing yield for each site.

Table 26. Summary of Remaining Inclusionary Zoning Sites

Existing Inclusionary Zoning Sites	Current Zone	Proposed Zone	Total Acres	Buildable Acres	Density	Set Aside	Total Units	Affordable Units
Site# 1: South Broadway (Block 4401, Lot 16)	TH	No Change	69.8	41.5	8	20%	332	66
Site# 2: Supanwa (Block 4401, Lot 17)	TH	No Change	78.4	12.9	8	20%	103	21
Site# 5: Orchard Ave (Block 501, Lot 6)	MF-1	No Change	7.3	5.4	14	15%	76	11
Site# 6: Churchtown Rd (Block 1101, Lot 31)	MF-2	No Change	19.8	16.5	10	15%	165	25
Sites# 7 & 8: Hook Rd (Block 4301, Lot 40, 41)	TH	No Change	54.7	21	8	20%	168	34
New Site# 9: South Broadway (Block 4201, Lot 17)	MU-2	MF-3	43.35	24.7	S1: 6	20%	S1: 150	S1: 30
					S2: 4.5		S2: 110	S2: 22
New Site# 10: South Broadway (Block 4201, Lot 17.01)	MU-2	MF-4/ MU-1	28.12	S1: 6	S1: 10	S1: 100%	S1: 60	S1: 60
				S2: 19.5	S2: 14	S2: 20%	S2: 275	S2: 55
Scenario 1 (S1); Scenario 2 (S2)							S1: 1,054	S1: 247
							S2: 1,229	S2: 234

The estimated buildable acreage represents the area of each site that is within the current sewer service area; if present within the sewer service area, wetlands and a 150-foot transition area buffer were also excluded from the buildable acreage.¹⁹ According to the Township engineer, the current sewer service area approved by DEP in 2006 was generally established based on a 300-foot transition area buffer from wetlands and excluded environmentally sensitive areas such as the bald eagle foraging habitat and the 100-year flood plain. However, the sewer service area for Site #1 was established using a 150-foot transition area buffer based on a freshwater wetlands letter of interpretation/line verification from the property owner's engineer dated 2009. The wetlands delineation for the site was approved by DEP and it clarified that the 300-foot

¹⁹ In 2023, DEP adopted amendments to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13, including the establishment of the Inland Flood Protection Rule. While many areas of Pennsville Township are affected by both the FEMA Flood Hazard Area and New Jersey's fluvial inland flood hazard area, the buildable area calculations in this Fourth Round HEFSP are consistent with the approach used in the Township's Court-approved Third Round HEFSP (i.e., based on land within the sewer service area and not within 300 feet of wetlands). Although areas affected by flood hazard zones may be subject to DEP's permitting and design standards, including mitigation measures such as elevation or floodproofing, the presence of these zones does not preclude development. The designated inclusionary sites remain suitable for development, provided that sites comply with applicable DEP regulations during the development review and permitting process.

buffers did not extend through the entire site. Ultimately, the buildable acreage of each site is subject to that individual site's wetlands determination, which could also expand or contract the sewer service area as confirmed by the Township's Engineer.

As previously explained and summarized in Table 25, Summary of 228 Prior Round Obligation Credits/Bonuses, 1987-1999, credits from the inclusionary zoning sites will be applied to the Township's Prior Round obligation as follows:

- **Scenario 1.** The 100% affordable development on new Site #10 will satisfy the remainder of the Township's Prior Round obligation and a portion of the Township's Third Round Obligation.
- **Scenario 2.** The Township entire water reservation of 275 total units and 55 affordable units will address the 55-unit balance of the Prior Round obligation. The 275-unit water reservation will be available to the first inclusionary developer(s) that utilizes some or all of it.

All affordable units generated from the inclusionary zoning mechanisms will be family units (not age-restricted) that will be integrated within the development and will have access to all of the community amenities available to the market-rate units. The following COAH rules are addressed for these sites:

- ✓ Administrative Entity – The developer of the site shall contract with an experienced affordable housing administrator to administer the affordable units. The affordable units shall have affordability controls in accordance with UHAC and shall be affirmatively marketed. The experienced administrator shall income qualify applicants and shall provide long-term administration of the units in accordance with COAH's rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1.
- ✓ Low/Moderate Income Split – At least half of all the affordable units at the site shall be affordable to low-income households per N.J.A.C. 5:93-2.20 and UHAC at N.J.A.C. 5:80-26.1. In the case of an odd number of affordable units, the split will favor the low-income unit. Also, 13% of the total number of affordable units must be affordable to very low-income households in accordance with the amended FHA at N.J.S.A. 52:27D-329.1.
- ✓ Bedroom Distribution – The affordable units on the site shall meet the bedroom distribution requirement pursuant to UHAC requirements at N.J.A.C. 5:80-26.1.
- ✓ Accessible and Adaptable – The affordable units on the site shall meet applicable accessible and adaptable requirements pursuant to the Barrier Free Subcode at N.J.A.C. 5:23-7.

Site #1: South Broadway (Block 4401, Lot 16) - Existing

Site #1 is an approximately 69.77-acre site located on South Broadway and Hook Roads (Block 4401, Lot 16). The Township's 2017 rezoning of this property permits attached townhomes at eight units per acre with a 20% affordable housing set-aside. The expected housing yield is 332 total units, of which 66 will be affordable.

In accordance with the COAH's rules at N.J.A.C. 5:93-5.3, Site #1 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. Site #1 was previously deemed suitable by COAH and was approved by the Court as part of Pennsville's 2017 Third Round JOR. The Township is not aware of any encumbrances that preclude the development of affordable housing on the property. The site is currently vacant and adjacent to farmland, medium density residential, and commercial land uses; it is also adjacent to another existing inclusionary zoning site. The site has access to Hook Road and South Broadway. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP's NJ-GeoWeb Known Contaminated Sites List indicates that Site #1 is not contaminated.

The Township has confirmed that the site is in the public water and sewer service areas, pending the limited water capacity reservation. Additionally, the site can be developed consistent with the Residential Site Improvement Standards ("RSIS") and all other state regulations, including those of DEP. It should be noted that this site is subject to the state's Coastal Area Facility Review Act ("CAFRA").

The majority of the site is located in PA 1, the preferred location for a municipality to address its affordable housing obligation. The site includes a small portion located in PA 5, which also corresponds with the presence of wetlands. However, this area is generally outside of the existing sewer service area and the estimated buildable acreage of the site. Further, according to the April 15, 2009 COAH report, "the site is flat farm land with some wooded wetlands to the east between this site and Site #2 ... based on a GIS analysis conducted by COAH staff, the wooded wetlands are located in PA 5." Accordingly, the presence of wetlands, while an environmental constraint, does not impact the ability to develop the site for inclusionary housing.

According to DEP's NJ-GeoWeb Landscape Project Data, v.3.4, the site is located within Rank 4 State Endangered habitat for Bald Eagle. The presence of the Rank 4 habitat requires a 150-foot freshwater wetlands transition area (N.J.A.C. 7:7A) and a 150-foot Riparian Zone (N.J.A.C. 7:13). However, these requirements were generally accounted for when the sewer service area was redefined in 2006. Upon discussions with the DEP Endangered Nongame Species Program ("ENSP"), it has been confirmed that there is not an eagle nest on or within 1,000-feet of the site. Correspondence with ENSP is included as Appendix J to this Plan. Accordingly, the presence of the Rank 4

habitat is not a significant impediment to the development of this site for inclusionary housing.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses, appropriate site access, and limited environmental constraints; (3) developable, as it is currently vacant and serviced by appropriate water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Site #2: Supanwa Road (Block 4401, Lot 17) - Existing

Site #2 is an approximately 78.4-acre site located on Supanwa Road (Block 4401, Lot 17). The Township's 2017 rezoning of this property permits attached townhomes at eight units per acre with a 20% affordable housing set-aside. The expected housing yield is 103 total units, of which 21 will be affordable.

In accordance with the COAH's rules at N.J.A.C. 5:93-5.3, Site #2 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. Site #2 was previously deemed suitable by COAH and was approved by the Court as part of Pennsville's 2017 Third Round JOR. There are no known encumbrances that preclude the development of affordable housing on the property. The site is currently vacant with the exception of a small, one-story nonresidential structure. Site #2 is adjacent to farmland, medium density residential land uses, and Site #1. The site has access to Supanwa Road. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP's NJ-GeoWeb Known Contaminated Sites List indicates that Site #2 is not contaminated.

The Township has confirmed that the site is in the public water and sewer service areas, pending the limited water capacity reservation. Additionally, the site can be developed consistent with RSIS and all other state regulations, including those of DEP. It should be noted that this site is subject to CAFRA.

The majority of the site is located in PA 1, with a small portion located in PA 5. The PA 5 portion of the site is generally consistent with the northern area of the site that is wooded wetlands. According to COAH's April 15, 2009 Third Round COAH Compliance Report, COAH staff conducted a GIS analysis and "confirmed that the wooded wetlands ... are located in PA 5." The PA 5 and wetlands area is generally outside of the existing sewer service area and estimated buildable acreage of the site. Accordingly, the presence of wetlands is accounted for and is a not significant impediment to the development of this site for inclusionary housing.

According to DEP's NJ-GeoWeb Landscape Project Data, v.3.4, the site is located within Rank 4 State Endangered habitat for Bald Eagle. The presence of the Rank 4 habitat requires a 150-foot freshwater wetlands transition area (N.J.A.C. 7:7A) and a 150-foot Riparian Zone (N.J.A.C. 7:13). However, these requirements were generally accounted for when the sewer service area was redefined in 2006. Upon discussions with the ENSP, it has been confirmed that there is not an eagle nest on or within 1,000-feet of the site. Correspondence with ENSP is included as Appendix J to this Plan. Accordingly, the presence of the Rank 4 habitat is not a significant impediment to the development of this site for inclusionary housing.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses and appropriate site access; (3) developable, as it is largely vacant and serviced by appropriate water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Site #5: Orchard Avenue (Block 501, Lot 6) - Existing

Site #5 is an approximately 7.25-acre site located on Orchard Avenue (Block 501, Lot 6). The Township's 2017 rezoning of this property permits multi-family apartment flats at 14 units per acre to encourage rental apartments with a 20% affordable housing set-aside. The expected housing yield is 76 total units, of which 11 will be affordable.

In accordance with N.J.A.C. 5:93-5.3, Site #5 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. Site #5 was previously deemed suitable by COAH and was approved by the Court as part of Pennsville's 2017 Third Round JOR. There are no known encumbrances that preclude the development of affordable housing on the property. The site is currently vacant, adjacent to single-family residences and vacant land, and near to the existing multi-family affordable housing development on Kent Avenue and proposed Site #6. The site has access via Orchard Avenue. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP's NJ-GeoWeb Known Contaminated Sites List indicates that Site #5 is not contaminated.

The Township has confirmed that the site is in the public water and sewer service areas, pending the limited water capacity reservation. Additionally, the site can be developed consistent with RSIS and all other state regulations, including those of DEP.

The site is located entirely in PA 1, the preferred location for a municipality to address its affordable housing obligation. The 2009 Third Round COAH Compliance Report notes that "COAH's GIS analysis indicates wetlands exist near the northern edge of

the site but there are no wetlands on the site.” Thus, the site is comprised of 7.25 acres of developable land.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses, appropriate site access, and limited environmental constraints; (3) developable, as it is currently vacant and serviced by appropriate water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Site #6: Churchtown Road (Block 1101, Lot 31) - Existing

Site #6 is an approximately 19.8-acre site located on Churchtown Road (Block 1101, Lot 31). The Township’s 2017 rezoning of this property permits multi-family apartment flats at ten units per acre with a 20% affordable housing set-aside. The expected housing yield is 165 total units, of which 25 will be affordable.

In accordance with N.J.A.C. 5:93-5.3, Site #6 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. Site #6 was previously approved by the Court for inclusionary zoning as part of Pennsville’s 2017 Third Round JOR. There are no known encumbrances that preclude the development of affordable housing on the property. The site is currently vacant, adjacent to single-family residences and vacant land, and is in close proximity to the existing multi-family affordable housing development on Kent Avenue and the existing Site #5. The site has access to Churchtown Road. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP’s NJ-GeoWeb Known Contaminated Sites List indicates that Site #6 is not contaminated.

The site is located within DEP’s revised sewer service area and the Township confirmed that public water and sewer service are available to the site, pending the limited water capacity reservation. Additionally, the site can be developed consistent with RSIS and all other state regulations, including those of DEP.

The site is entirely located within PA 1, the preferred location for a municipality to address its affordable housing obligation. However, a small portion of the site contains wetlands. The estimated developable area omits this portion of the site and the presence of wetlands, while an environmental constraint, is not expected to impact the ability to develop the site for inclusionary housing.

According to DEP’s NJ-GeoWeb Landscape Project Data, v.3.4, the site includes small areas identified as Rank 1 and Rank 2 habitats. The areas correspond with the boundaries of the wetlands area. Rank 1 areas are assigned to species-specific habitat

patches, but do not necessarily have confirmed occurrences of such species. The Rank 2 area has been identified as a Cooper's Hawk habitat, a species of special concern for the State. However, the presence these habitats is not a significant impediment to the development of this site for inclusionary housing.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses, appropriate site access, and limited environmental constraints; (3) developable, as it is currently vacant and serviced by water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Sites #7 and 8: Hook Road (Block 4301, Lot 40, 41) - Existing

Sites #7 and 8 comprise approximately 54.7 acres of land located on Hook Road (Block 4301, Lots 40 and 41). The Township's 2017 rezoning of this property permits attached townhomes at eight units per acre with a 20% affordable housing set-aside. The expected housing yield is 168 total units, of which 34 will be affordable.

In accordance with N.J.A.C. 5:93-5.3 and as described below, inclusionary zoning Sites #7 and #8 are available, suitable, developable, and approvable and meet the site criteria and general requirements to be eligible for credits. Sites #7 and 8 were previously approved by the Court for inclusionary zoning as part of Pennsville's 2017 JOR. There are no known encumbrances that preclude the development of affordable housing on the properties. The sites are both vacant and adjacent to agricultural and low density residential uses as well as vacant wetlands areas. Site #7 has access to both South Hook Road and Sinnickson Lane, while Site #8 only has access to Sinnickson Lane. There are no historic structures listed on the State or National Historic Registers on these sites, and the properties are not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP's NJ-GeoWeb Known Contaminated Sites List indicates that the sites are not contaminated.

The vast majority of both sites are located within DEP's revised sewer service area and the Township confirmed that public water and sewer service are available to the sites, pending the limited water capacity reservation. Additionally, the sites can be developed consistent with RSIS and all other state regulations, including those of DEP.

Site #7 is entirely located within PA 1. While a portion of Site #8 that is adjacent to Site #7 is also located in PA 1, the large majority of the site is located in PA 5. Further both sites will be subject to CAFRA. Therefore, although the majority of Site #8 is located in the DEP approved sewer service area, the portion of the site also within PA 5 will be subject to a maximum impervious coverage of 3%.

As a result of this limitation, the portion of Site #8 located within PA 5 was subtracted from the estimated buildable acreage of the combined sites. While both sites have a

small area that contains wetlands, these areas and their transition areas have been omitted in the estimated developable acreage for the site. Accordingly, the presence of wetlands, while an environmental constraint, does not impact the ability to develop the site for inclusionary housing.

According to DEP's NJ-GeoWeb Landscape Project Data, v.3.4, both sites are located within a Rank 4 State Endangered habitat for Bald Eagle. The presence of the Rank 4 habitat requires a 150-foot freshwater wetlands transition area (N.J.A.C. 7:7A) and a 150-foot Riparian Zone (N.J.A.C. 7:13). These transition areas were considered when revising the sewer service area on these sites and were generally excluded from the service area and the estimated buildable acreage of the site. However, the site is specifically mapped within a Bald Eagle nest area and upon discussions with the ENSP, it has been confirmed that an eagle nest is on or within 1,000-feet of the Site #8 (see ENSP Correspondence – Appendix J). The presence of an eagle nest requires up to a 1,000-foot transition area to which a substantial portion of Site #8 would be subject. As detailed above, the large majority of Site #8 is already estimated to be unbuildable, which generally includes the area that would be subject to the 1,000-foot nest buffer. Therefore, the presence of the Rank 4 habitat has already been considered in estimating the combined sites developable acreage and is not anticipated to pose a further significant impediment to the development of this site for inclusionary housing.

In summary, Sites #7 and #8 are (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses and appropriate site access; (3) developable, as it is currently vacant and serviced by water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Site #9: South Broadway (Block 4201, Lot 17) - New

As previously explained, the Township's Third Round HEFSP included the "former Site #9," an approximately 71.5-acre tract (Block 4201, Lot 17) located on South Broadway that was designated to permit mixed-use multifamily (30%) and commercial (70%) development with an anticipated yield of 24 affordable housing units. The former Site #9 was recently subdivided by the owner into two new tracts: new Site #9 (Block 4201, Lot 17) and new Site #10 (Block 4201, Lot 17.01). Pursuant to the terms of the Township's Court-approved 2024 amended settlement agreement with FSHC, and updated by this Fourth Round HEFSP, the Township will rezone new Site #9 to permit multi-family apartment flats at six units per acre with a 20% affordable housing set-aside. The expected housing yield is 150 total units, of which 30 will be affordable.

In accordance with N.J.A.C. 5:93-5.3 and as described below, new Site #9 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. There are no known encumbrances that preclude the development of affordable housing on the property. The site is largely vacant with the exception of a farmhouse and single-story nonresidential structures that appear to be incidental to agriculture production. These existing structures only represent a very minor portion of the site near South Broadway. New Site #9 is adjacent to vacant and agricultural land and medium and higher density residential and some commercial uses. The site has access to South Broadway, Route 49. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP's NJ-GeoWeb Known Contaminated Sites List indicates that Site #9 is not contaminated.

The vast majority of new Site #9 is located within DEP's revised sewer service area. The area located outside of the service area was not included in the estimated buildable acreage for the site. The Township confirmed that public water and sewer service are available to the site, pending the limited water capacity reservation. Additionally, the site can be developed consistent with RSIS and all other state regulations such as those of DEP.

The site is entirely located within PA 1, the preferred location for a municipality to address its affordable housing obligation. However, a small portion of the site contains wetlands, which are located outside of the sewer service area. Therefore, the estimated developable area omits this portion of the site. While wetlands are an environmental constraint, the presence of wetlands on this site is not anticipated to impact the ability to develop the site for inclusionary housing.

According to DEP's NJ-GeoWeb Landscape Project Data, v.3.4, the site is located within a Rank 4 State Endangered habitat for Bald Eagle. The site is specifically mapped within a Bald Eagle nest area. The presence of the Rank 4 habitat requires a 150-foot freshwater wetlands transition area (N.J.A.C. 7:7A) and a 150-foot Riparian Zone (N.J.A.C. 7:13). However, upon discussions with the ENSP, it has been confirmed that an eagle nest is not on or within 1,000-feet of the site (see ENSP Correspondence – Appendix J). Accordingly, the presence of the Rank 4 habitat is not a significant impediment to the development of this site for inclusionary housing.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses, appropriate site access, and limited environmental constraints; (3) developable, as it is largely vacant and serviced by appropriate water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

Site #10: South Broadway (Block 4201, Lot 17.01) - New

New Site #10 is located on South Broadway (Block 4201, Lot 17.01) and is a portion of the “former Site #9”, documented in Pennsville’s Third Round HEFSP. The site comprises approximately 28.12 acres, of which 19.5 acres are buildable. Pursuant to the terms of the Township’s Court-approved 2024 amended settlement agreement with FSHC, and as previously described, the Township will rezone new Site #10 to accommodate two potential development scenarios:

- **Scenario 1.** New Site #10 will be developed as a mixed-use development that includes a 100% affordable development of 60 family affordable rental units; and the balance of new Site #10 will be permitted to develop with commercial uses. Multifamily apartment flats will be permitted at ten units per acre on an approximately six-acre portion of new Site #10, 30% of the buildable acreage.
- **Scenario 2.** If an experienced tax credit developer’s efforts are unsuccessful to secure funding for a 100% Affordable development, then the entirety of new Site #10 will be permitted to develop with an inclusionary development of 275 total units, 55 of which are affordable.

In accordance with N.J.A.C. 5:93-5.3 and as described below, new Site #10 is available, suitable, developable, and approvable and meets the site criteria and general requirements to be eligible for credits. There are no known encumbrances that preclude the development of affordable housing on the property. The site is largely vacant with the exception of a farmhouse and single-story nonresidential structures that appear to be incidental to agriculture production. These existing structures only represent a very minor portion of the site near South Broadway. New Site #10 is adjacent to vacant and agricultural land and medium and higher density residential and some commercial uses. The site has access to South Broadway, Route 49. There are no historic structures listed on the State or National Historic Registers on the site, and the property is not within an historic district listed on the State or National Historic Registers. Further, a review of the DEP’s NJ-GeoWeb Known Contaminated Sites List indicates that Site #10 is not contaminated.

The vast majority of new Site #10 is located within DEP’s revised sewer service area. The area located outside of the service area was not included in the estimated buildable acreage for the site. The Township confirmed that public water and sewer service are available to the site, pending the limited water capacity reservation. Additionally, the site can be developed consistent with RSIS and all other state regulations such as those of DEP.

The site is entirely located within PA I, the preferred location for a municipality to address its affordable housing obligation. However, a small portion of the site contains wetlands, which are located outside of the sewer service area. Therefore, the estimated developable area omits this portion of the site. While wetlands are an environmental

constraint, the presence of wetlands on this site is not anticipated to impact the ability to develop the site for inclusionary housing. However, according to DEP's NJ-GeoWeb Landscape Project Data, v.3.4, the site is located within a Rank 4 State Endangered habitat for Bald Eagle. The site is specifically mapped within a Bald Eagle nest area. The presence of the Rank 4 habitat requires a 150-foot freshwater wetlands transition area (N.J.A.C. 7:7A) and a 150-foot Riparian Zone (N.J.A.C. 7:13). However, upon discussions with the ENSP, it has been confirmed that an eagle nest is not on or within 1,000-feet of the site (see ENSP Correspondence – Appendix J). Accordingly, the presence of the Rank 4 habitat is not a significant impediment to the development of this site for inclusionary housing.

In summary, the site is (1) available, as evidenced by no known encumbrances precluding inclusionary development; (2) suitable, as documented by complementary surrounding land uses, appropriate site access, and limited environmental constraints; (3) developable, as it is largely vacant and serviced by appropriate water/sewer infrastructure, pending limited water capacity; and (4) approvable, as it will be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction.

In order to complete a 100% affordable development on new Site #10, it will be necessary to secure low income housing tax credit ("LIHTC") financing through either the 4% or 9% LIHTC program. The contingency for obtaining tax credit financing requires satisfying all conditions imposed by HMFA, including the distribution of units by bedroom size and affordability level, the establishment of rents for the units, and the length of the control period. The 100% Affordable development proposed on Site #10 addresses the requirements defined in N.J.A.C. 5:93 5-5, as follows:

- ✓ **Site Control.** On April 11, 2024, Land Partners of New Jersey, LLC, the developer of the 100% project, entered into an agreement of sale with the current owner (the estate of Joseph Humphreys) to purchase the subject property, thereby demonstrating site control. If the agreement of sale is no longer valid, then site control would have to be re-established.
- ✓ **Administrative Agent.** An experienced administrative agent will serve as the long-term administrative agent for the project and will oversee all aspects of the development ensuring adherence with HMFA's/ UHAC requirements.
- ✓ **Funding Capabilities.** The Court-approved 2024 amended settlement agreement between Pennsville and FSHC acknowledges the Township's inability to provide adequate and stable financing to satisfy a possible funding shortfall. In the event the developer does not receive sufficient outside funding, the Township will not be required to fund any potential 100% affordable development proposed on new Site #10. Instead, as agreed to by FSHC, the

Township will rely on the realistic opportunity presented by the enhanced inclusionary zoning alternative to be enacted on Site #10.

- ✓ **Construction Schedule.** The 2024 amended FSHC Agreement also requires the developer to provide a proposed Construction Schedule and Pro Forma for the proposed project as part of the future compliance plan amendment.

Prior Round Senior Cap, Rental Component and Rental Bonuses

The Prior Round rules, contained at N.J.A.C. 5:93, require a municipality's obligation to consist of a minimum number of rental units, a maximum number age-restricted units, and maximum number of rental bonuses. As previously noted, Pennsville Township's Prior Round obligation is required to include at least 33 rental units, no more than 41 age-restricted units, and no more than 33 rental bonuses. Pennsville Township has addressed its Prior Round obligation with 154 rental units, 41 age-restricted units from the Kent Avenue site, and 19 Prior Round rental bonuses.

SATISFACTION OF THE THIRD ROUND OBLIGATION

As previously stated, Pennsville Township's Third Round obligation was established at 376 in the 2016 settlement agreement executed with FSHC; however, the obligation was ultimately reduced by the Court to 234, as documented in the 2017 JOR. Per COAH's regulations, and as modified by terms set forth in the Pennsville's Court-approved agreements with FSHC, the Township must address a variety of minimum or maximum credits in satisfying its Third Round obligation as set forth in the following formulas:

Minimum Third Round Rental Obligation = 59 units

$0.25 (234) = 58.5$, required to round up

Maximum Third Round Age-Restricted Units = 58 units

$0.25 (234) = 58.5$, require to round down

Minimum Third Round Family Units = 103 units; 113 units

Scenario 1. - $0.50 (206 \text{ total units}) = 103$

Scenario 2. - $0.50 (225 \text{ total units}) = 112.5$; round up

Minimum Third Round Family Rental Units = 30 units

$0.50 (59 \text{ rental requirement}) = 29.5$, required to round up

Minimum Very Low-Income Units = 31 units

$0.13 (234) = 30.4$, required to round up

Minimum Very Low-Income Family Units = 16 units

$0.13 (31 \text{ very low-income requirement}) = 15.5$, required to round up

As summarized in Table 27, Summary of 234 Third Round obligation Credits/Bonuses 1999-2025, the Township plans to address its Third Round obligation of 234 with a combination of completed and proposed senior affordable rentals, inclusionary zoning sites, and Third Round rental bonuses. These compliance mechanisms are sufficient to address the Township's Third Round obligation of 234.

**Table 27. Summary of 234 Third Round
Obligation Credits/Bonuses, 1999-2025**

Scenario 1. with 100% Affordable development on New Site #10	Credits	Bonus	Total
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (45 of 86, senior bal.)	45	9	54
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (13 of 60; cap)	13	–	13
Inclusionary Zoning Sites – w/ 100% Affordable Rentals on #10			
New Site #10 – 100% Affordable Family Rentals with reserved water capacity (19 of 60)	19	19	38
Sites #1, 2, 5, 6, 7, 8, or New Site #9 – Inclusionary Family Affordable Units with 150 total/30 affordable reserved water capacity, first-come first-served basis	30	–	30
Subtotal	107	28	135
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Site #9 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	99	–	99
Total	206	28	234

Scenario 2. <u>without</u> 100% Affordable development on New Site #10	Credits	Bonus	Total
100% Affordable Rentals – Completed			
Kent Avenue – Affordable Senior Rentals (45 of 86, senior bal.)	45	9	54
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (13 of 60; cap)	13	–	13
Subtotal	58	9	67
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	167	–	167
Total	225	9	234

Affordable Rental Units – Completed, Proposed

Kent Avenue Senior/Special Needs Housing (Completed)

As previously discussed in the section on the Township's Prior Round obligation, Kent Avenue Senior/Special Needs Housing (Block 501, Lot 19) is an existing 101-unit 100% affordable rental community that includes 86 affordable senior units, 14 special needs units, and one (1) unit for an onsite manager. The units at the Kent Avenue site received certificates of occupancy on January 30, 2008 and have 30-year affordability controls through 2038 (Appendix H). For the purposes of crediting, 45 of 86 existing affordable senior rental units are being used to address the Township's Third Round obligation. The remaining 41 of 86 senior rental units and all 14 special needs units are being used to address the Prior Round obligation.

Pennsville Towers Expansion (Proposed)

The existing Pennsville Towers development (Block 3101, Lot 4) consists of 99 affordable senior units in an eight-story building located on Eaton Road. The development was constructed in 1984 in what was then a commercial zone; however, in 2022 the Township rezoned the property to the MF-3 100% Affordable District in order to enable a proposed expansion of the development with an additional 60 senior affordable units. Appendix I contains a copy of a proposed concept plan for the site. The 5.6-acre partially wooded lot has a small frontage on its southwest side on Eaton Avenue. The surrounding lots are zoned Commercial, including the wooded lot to the northwest which contains a single-family home and a commercial building. To the southeast are single-family homes with frontage along Atlantic Road. To the northeast, the lot abuts the rear of Cranberry Plaza, a one-story strip mall with frontage on Broadway (State Route 49). Across Eaton Avenue to the southwest are single-family homes in the Township's R-1 zone. The lot is in PA1, where redevelopment is encouraged, and is within the Township's water and sewer service areas.

As referenced in the Court-approved 2024 amended FSHC agreement, the developer of the proposed 60-unit expansion had previously reserved sufficient water capacity. DEP's GeoWeb mapping indicates no wetlands or environmental contamination on the site, and the site is outside any FEMA 100-year flood zone. NJ Transit bus route 468, which runs between Woodstown and Carneys Point, stops in front of the existing Pennsville Towers building. Accordingly, the site is available, suitable, approvable and developable for additional affordable housing.

The affordable units are proposed to be constructed and administered by The Walters Group, an experienced developer and administrator of affordable units in New Jersey. A deed restriction of at least 40 years will be imposed on the proposed senior rental units, at least 13% of the units will be affordable to very low-income households at 30% of regional median income, and at least 50% of the units, inclusive of the 13% very low-income units, will be affordable to low-income households at 50% or less of regional median income. The units will be affirmatively marketed in accordance with UHAC at N.J.A.C. 5:80-26.1 et seq., as modified by P.L. 2024, c.2.

In addition, the proposed 100% affordable 60-unit senior rental project addresses the requirements defined in N.J.A.C. 5:93 5-5, as follows:

- ✓ **Site Control.** The Pennsville Towers site currently supports a 99-unit 100% affordable senior rental development that is presently owned by Foresight Affordable Housing, Inc. (“Foresight”) and administered by the Walters Group, an experienced affordable housing developer and administrator.
- ✓ **Administrative Agent.** The Walters Group will serve as the long-term administrative agent for the project and will oversee all aspects of the development ensuring adherence with HMFA’s/ UHAC requirements.
- ✓ **Funding Capabilities.** The 2024 amended settlement agreement between Pennsville and FSHC acknowledges the Township’s inability to provide adequate and stable financing to satisfy a possible funding shortfall for 100% affordable housing developments. Although the Township may provide significant trust funds per its Fourth Round Spending Plan, pending the funding availability of future trust fund revenue, the Township will not be required to cover funding shortfalls for the proposed 100% affordable 60-unit senior rental project. Instead, as agreed to by FSHC, the Township will rely on the realistic opportunity presented by the enhanced zoning alternatives to be enacted on new Site #10.
- ✓ **Construction Schedule.** At the time of preparing this HEFSP, the following general construction schedule is anticipated: prepare and submit site plan application for approval (Summer 2026), submit application to HMFA for 4% or 9% LIHTC (August 2026), funding awards granted (December 2026), outside agency approvals/permits (Winter 2027), closing, select contractor and construction start (Spring 2027).

Inclusionary Zoning Sites/Durational Adjustment

As previously discussed in the section on the Township’s Prior Round obligation, Pennsville will address portions of its Prior Round, Third Round, and Fourth Round obligations using eight (8) inclusionary zoning sites, known as Sites #1, #2, #5, #6, #7, #8, new Site #9, and new Site #10. Pursuant to the Court-approved 2024 amended settlement agreement with FSHC, Sites #3 and #4 will no longer be zoned for inclusionary development and instead will be replaced by reconfiguring the former Site #9 into new Sites #9 and #10 with higher density inclusionary zoning on both sites and by permitting the options for either 100% affordable or inclusionary residential development on new Site #10. For the purposes of crediting, both development scenarios for new Site #10 are described below and illustrated above in Table 27, Summary of 234 Third Round obligation Credits/Bonuses 1999-2025

- **Scenario 1.** If new Site #10 is developed with a 60-unit 100% affordable development:
 - 19 of the 60 units, along with 19 bonuses, will be applied to the Third Round Obligation.
 - The remaining 41 of 60 units will be applied to the Prior Round.
 - An additional 30 units will be applied to the Third Round obligation using reserved water capacity from one of the other inclusionary sites, on a first-come first-served basis.
 - The balance of 99 units for the Third Round obligation will be durationally adjusted.
- **Scenario 2.** If new Site #10 is instead developed as an inclusionary site:
 - The entire 55-unit water reservation from any one of the inclusionary sites, on a first-come first-served basis, will be applied to the Prior Round.
 - The Township's remaining 167-unit balance of the Third Round obligation will be durationally adjusted.

As previously discussed, Pennsville is purposefully siting possible future inclusionary developments through the eight (8) inclusionary zoning sites and therefore shall not be required to "amend its compliance plan to provide additional inclusionary zoning pursuant to N.J.A.C. 5:93-4.3(c) other than the ... existing and proposed inclusionary zoning sites denoted in the Agreement." The Township's request for a durational adjustment of a portion of its Third Round obligation of 234 was previously agreed to by FSHC, as documented in the 2016 settlement agreement, and was approved by the Court in a settlement fairness order dated January 27, 2017. Thereafter, the Court approved the Township's Third Round HEFSP in a Final Third Round JOR, dated December 19, 2017.

SATISFACTION OF THE FOURTH ROUND OBLIGATION

On January 16, 2025, Pennsville Township adopted a resolution declaring a Fourth Round Present Need of 69 units and a Fourth Round Prospective Need of 46, based on calculations created by DCA and described in the October 2024 report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*. As no objections/challenges were filed against the Township's reliance on DCA's Fourth Round fair share numbers, the Superior Court affirmed the Township's Fourth Round obligations by Order dated April 28, 2025.

The minimum number of affordable family units and maximum number of age-restricted affordable units are established using the following formulas:

Maximum Fourth Round Bonuses = 11 units

$$0.25 \text{ (Fourth Round obligation)} = 0.25 (46) = 11.5, \text{ round down}$$

Minimum Fourth Round Total Rental Units = 9 units

$$0.25 \text{ (Fourth Round obligation - bonuses)} = 0.25 (46 - 10) = 9$$

Minimum Fourth Round Family Rental Units = 5 units

$$0.50 \text{ (Min Fourth Round Total Rental Units)} = 0.50 (9) = 4.5, \text{ round up}$$

Minimum Fourth Round Total Family Units = 18 units

$$0.50 \text{ (Fourth Round obligation - bonuses)} = 0.50 (46 - 10) = 18$$

Maximum Fourth Round Age-Restricted Units = 10 units

$$0.30 \text{ (Fourth Round obligation - bonuses)} = 0.30 (46 - 10) = 10.8, \text{ round down}$$

Minimum Fourth Round Very Low-Income Units = 5 units

$$0.13 \text{ (Fourth Round obligation - bonuses)} = 0.13 (46 - 10) = 4.68, \text{ round up}$$

Minimum Fourth Round Very Low-Income Family Units = 3 units

$$0.50 \text{ (Min Fourth Round Very Low-Income Units)} = 0.50 (5) = 2.5, \text{ round up}$$

As summarized in Table 28, Summary of Fourth Round Credits/Bonuses, 2025-2035, the Township proposes to address its Fourth Round obligation of 46 using the Pennsville Senior Towers expansion site and Fourth Round bonuses for projects that are 100% affordable and where the municipality provides 3% of project costs. The Township is requesting a durational adjustment for the remainder of its Fourth Round obligation, which will be addressed using the eight (8) inclusionary zoning sites. These compliance mechanisms are sufficient to address the Township's Fourth Round obligation of 46.

Table 28. Summary of Fourth Round Credits/Bonuses, 2025-2035

46 Fourth Round - Compliance Mechanisms	Credits	Bonus	Total
100% Affordable Rentals – Proposed			
Pennsville Tower Exp – 100% Aff. Senior Rentals (10 of 47, bal. of 60; cap)	10	10	20
Durational Adjustment			
Sites #1, 2, 5, 6, 7, 8, or New Sites # 9 and 10 – Inclusionary Family Affordable Units <u>without</u> reserved water capacity	26	–	26
Total	36	10	46

Affordable Rental Units – Proposed

Pennsville Towers Expansion (Proposed)

As previously discussed, the existing Pennsville Towers development contains 99 affordable senior units within an eight-story building on Block 3101, Lot constructed in 1984. In 2022 the Township rezoned this property as the MF-3 100% Affordable District in order to enable a proposed expansion of the development with an additional 60 senior affordable rental units. The Township is eligible to apply a maximum of 10 senior affordable rental units from this proposed development to its Fourth Round obligation, plus an additional 10 bonuses for projects that are 100% affordable and where the municipality provides 3% of project costs. The previous section on Pennsville's Third Round obligation includes a site suitability analysis and documents compliance with the requirements for 100% affordable sites. Thirteen of the proposed 60 senior affordable rental units will address the Third Round and 10 of the balance of 47 of the total 60 senior affordable rental units will address the Fourth Round.

Durational Adjustment

Pennsville Township is requesting the continuation of its durational adjustment of the 26-unit balance of its Fourth Round obligation. Although water capacity is not reserved, the eight (8) inclusionary zoning sites remain zoned to accommodate an affordable unit yield of 26 units. As previously discussed, the Township has reserved water capacity for 55 affordable housing units, and these credits will be used to satisfy the remainder of the Township's Prior Round obligation and, possibly, a portion of the Third Round obligation.

Fourth Round Requirements - Rental, Family, Senior, Rental Bonuses, Very Low-Income

Pursuant to P.L. 2024, c.2, Pennsville Township must address a variety of minimum or maximum credits in satisfying its Fourth Round obligation. The formulas for these requirements are included in the section above. The Township will address its Fourth Round obligation with 10 senior affordable rental units (the maximum number allowed) from the Pennsville Towers expansion site as well as 10 bonuses which do not exceed the Fourth Round bonus maximum. Future affordable housing in the Township shall provide the minimum required number of family units, rental units, family rental units, very low-income units, and family very low-income units.

VERY LOW-INCOME UNITS

Pursuant to the amended FHA (P.L. 2008, c.46), municipalities must ensure that at least 13% of affordable housing units approved and constructed after July 17, 2008, are available to very low-income households. In addition, per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing a Fourth Round Prospective Need must be "available for families with children." Similarly, the Township's 2016 settlement agreement with FSHC also

requires half of very low-income units to be available with families (though, not specifically families with children).

The Township will satisfy the very low-income requirements with 14 very low-income special needs units at Kent Avenue, very low-income senior units at Pennsville Towers expansion, and with very low-income units for families that will be a required component of the eight (8) inclusionary zoning sites. At least half of these units will be available to families with children.

INCOME AND BEDROOM DISTRIBUTION

Per N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.4, non-age-restricted affordable units must adhere to the following bedroom distribution: no more than 20% may be one-bedroom or efficiency units, at least 30% must be two-bedroom units, and at least 20% must be three-bedroom units. Future affordable housing in Pennsville Township shall comply with this bedroom distribution.

Existing affordable housing in Pennsville includes a combination of HUD or LIHTC age-restricted and special needs affordable units within the Pennsville Senior Towers and Kent Avenue developments. These units are therefore not subject to the UHAC bedroom-income distribution.

MULTIGENERATIONAL FAMILY HOUSING CONTINUITY

The FHA requires an HEFSP to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). As of May 2025, no recommendations have been issued by the Commission.

ADMINISTRATION AND AFFIRMATIVE MARKETING

Pennsville Township currently has a Court-approved Fair Share Ordinance (included in Appendix K). Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Fair Share Ordinance in accordance with COAH's rules, DCA's proposed new regulations at N.J.A.C. 5:99 and UHAC's new 2025 regulations that are anticipated to be released shortly. The Fair Share Ordinance governs the establishment of affordable units in the Township as well as regulating the occupancy of such units. The Township's Fair Share Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. including 13% very low-income housing shall be required to be affordable to households earning no more than 30 percent of median income.

As approved by municipal resolution, the Municipal Clerk, has held and will continue to hold the position of the Municipal Housing Liaison. The Township utilizes several existing experienced affordable housing administrative agents including The Walters Group, Ron Rukenstein & Associates, and Triad Associates.

Pennsville Township currently has a Court-approved Affirmative Marketing Plan and has provided a preliminary Fourth Round updated Affirmative Marketing Plan . Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Affirmative Marketing Plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules. The Township will adopt an Affirmative Marketing Plan for all affordable housing sites. The Township's preliminary Fourth Round updated Affirmative Marketing Plan, included in Appendix L, is 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 the affordable units located in the Township. Additionally, the Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Township's housing region, Region 6, consisting of Atlantic, Cape May, Cumberland, and Salem Counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum affordability control required by UHAC, N.J.A.C. 5:80-26.1 et seq. This plan must be adhered to by all private, non-profit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

As required by the court-approved Third Round FSHC agreement, the Affirmative Marketing Plan lists FSHC, State and County chapters of NAACP, the Latino Action Network, Salem County Board of Social Services, Salem County Department of Aging and Habitat for Humanity among the list of community and regional organizations. The Township shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

Finally, in accordance with the July 2020 amendment to the FHA, Pennsville Township will include in its Affirmative Marketing Plan the requirement that all units

subject to affirmative marketing requirements be listed on the state Housing Resource Center website.²⁰

DEVELOPMENT FEE ORDINANCE

Pennsville Township initially adopted a development fee ordinance in 2005 which was approved by COAH on February 27, 2006. A revised development fee ordinance was adopted on February 19, 2015 (included as Appendix M). The updated ordinance permits collection of residential development fees equal to 1.5% of the equalized assessed value of new residential construction and additions, and mandatory nonresidential development fees equal to 2.5% of the equalized assessed value of new nonresidential construction and additions. Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated development fee ordinance in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement.

SPENDING PLAN

Pennsville Township's affordable housing trust fund was established on February 27, 2006. As of December 31, 2024, the trust fund maintained a balance of \$1,780,043.34. A new Fourth Round Spending Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, has been prepared in accordance with N.J.A.C. 5:93-5.1(c) and is included as Appendix N. All collected revenues are placed in the Township's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules.

In general, the Township intends to use its trust fund revenues to support development costs and provide affordability assistance for two proposed 100% affordable developments, located at new Site #10 and the Pennsville Towers Expansion site, pending the availability of future projected development fees and trust funds. Additional trust fund expenditures will include the rehabilitation of existing deficient housing units, a general affordability assistance program, and administrative costs related to affordable housing efforts. The Township may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new,

²⁰ <https://njhrc.gov>

emergent affordable housing activities, subject to applicable limitations and minimum expenditures:

- New construction;
- Purchase of land for low- and moderate-income housing;
- Improvement of land to be used for low- and moderate-income housing;
- Extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites;
- Assistance designed to render units to be more affordable.

At least 30% of development fees and interest collected must be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan and for the creation of very low-income units. Additionally, no more than 20% of trust fund revenues collected each year may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a new construction program, an HEFSP, and/or an affirmative marketing program.

The adoption of the Township's Fourth Round Spending Plan will constitute a "commitment" for expenditure per the FHA at N.J.S.A. 52:27D-329.2, with a four-year time period for expenditure that will start with the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

COST GENERATION

Pennsville Township's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards; it provides for expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, RSIS at N.J.A.C. 5:21-1 et seq. and the mandate of the FHA regarding unnecessary cost generating features. Pennsville Township shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C. 5:93-10.3. Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will revise its Land Development Ordinance, if needed, in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, in order to address new requirements to address cost generative issues.

MONITORING

In accordance with the requirements of N.J.S.A. 52:27D-329.2 and -329.4 as amended by P.L. 2024 c.2, by February 15 of each year of the Fourth Round, the Township will provide a detailed accounting through DCA's new AHMS online portal of all residential and non-residential fees collected, interest earned, and other income collected and deposited into the Township's affordable housing trust fund during the prior calendar year. The Township will also provide a detailed accounting in AHMS of all expenditures of affordable housing trust funds during the prior calendar year, including purposes and amounts, and documentation of the balance remaining in the affordable housing trust fund as of December 31 of that year.

Pennsville Township or any other interested party may file an action through the Program seeking a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public, including a realistic opportunity review of any non-durationally adjusted inclusionary development site in this HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. If such an action is initiated, The Township may propose one or more alternative sites with an accompanying development plan or plans that provide a realistic opportunity for the same number of affordable units and are otherwise in compliance with the FHA and the Mount Laurel doctrine.

APPENDIX A

DECEMBER 19, 2017 THIRD ROUND JOR

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FILED
DEC 19 2017
Anne McDonnell, P.J.Ch.

**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF PENNSVILLE, COUNTY OF
SALEM**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SALEM COUNTY
DOCKET NO.: L-119-15

Civil Case

**JUDGMENT OF MOUNT LAUREL
COMPLIANCE AND REPOSE
AND APPROVING MUNICIPAL
AFFORDABLE HOUSING
SPENDING PLAN**

THIS MATTER having been opened to the Court by Plaintiff, the Township of Pennsville, by and through its attorney Walter J. Ray, Esquire (hereinafter the "Township"); and Joshua Bauers, Esquire, appearing for Fair Share Housing Center (hereinafter "FSHC"), a Supreme Court-designated interested party pursuant to the NJ Supreme Court's decision in In Re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015); and FSHC and the Township having agreed that the Township's cumulative 1987-2025 Third Round Mount Laurel affordable housing obligation is comprised of a Present Need/Rehabilitation Share obligation of 38 units, a Prior Round obligation of 228 units, and a Third Round Prospective Need obligation of 376 units, subject to a Durational Adjustment pursuant to N.J.A.C. 5:93-4.3; and on January 12, 2017, the Court having conducted a Fairness Hearing and found that the settlement reached in this matter is fair and reasonable to low-and moderate-income persons per Order dated January 27, 2017; and the Pennsville Township Planning Board having adopted a Housing Element and Fair Share Plan (the "Plan"), endorsed by the Pennsville Township Committee, to satisfy the

Township's cumulative Third Round affordable housing obligation; and the Court having scheduled a Compliance Hearing held on November 28, 2017, for the purposes of determining whether the Township's Plan is constitutionally compliant and making a determination as to the Township's entitlement to a Judgment of Compliance and Repose; and the Township having properly caused notice to be published of the Compliance Hearing, with said notice providing an opportunity for any interested party to file an objection on or before November 14, 2017; and no parties having entered objection; and the Court having considered the moving papers, the matters of record submitted by the parties, the testimony of Township Planning Consultant, Mary Beth Lonergan, AICP, PP, and the representations of counsel; and the Court having provided an opportunity for the parties and members of the public to ask questions or provide comments on the Plan and matters addressed in the proceedings; and good and sufficient cause having been shown for entry of this Judgment, and for the reasons placed on the record during the November 28, 2017, Compliance Hearing;

IT IS on this 19th day of December, 2017,

ORDERED AND ADJUDGED as follows:

1. The Township of Pennsville has a cumulative 1987-2025 third round Mount Laurel affordable housing obligation comprised of:
 - a. A Present Need/Rehabilitation Share obligation of 38 units;
 - b. A Prior Round obligation of 228 units; and

c. A Third Round Prospective Need obligation of 376 units, which was further reduced to 234 units by virtue of Court-approved durational adjustment pursuant to N.J.A.C. 5:93-4.3.

2. The settlement agreement reached by and between the Township and Fair Share Housing Center is fair and reasonable to the interests of low and moderate income households and, as such, was approved by this Court by Order on January 27, 2017.

3. The parties shall comply with the terms and conditions set forth in said settlement agreement.

4. As detailed in the January 27, 2017 Order, the Court-approved durational adjustment reducing the Township's Third Round Prospective Need obligation to 234 units is a result of limited fiscal and infrastructure capacity. The Township has purposefully sited future inclusionary developments limited to nine (9) inclusionary zoning sites. The Township is not required to have overlay zoning per N.J.A.C. 5:93-4.3(b). The Township shall reserve water and sewer capacity for the inclusionary housing site(s) to be developed to fully satisfy the remaining 55-unit balance of the Prior Round obligation. The remaining 179 affordable housing units to be developed on these sites to help address the 234-unit Third Round Prospective Need obligation (in addition to 45 existing affordable housing credits and 10 rental bonuses) are subject to availability of future additional water and sewer capacity.

5. As detailed in the Township's Housing Element and Fair Share Plan, the Township has demonstrated that it has met its Prior Round obligation and has in place a plan to meet its Present Need/Rehabilitation Share obligation and its Third Round Prospective Need obligation

as modified by the Court-approved durational adjustment. As such, the Township's Plan and implementing ordinances are constitutionally sufficient and compliant with the Township's Third Round Mount Laurel affordable housing obligation and are therefore approved.

6. The Township shall fully implement its Housing Element and Fair Share Plan.
7. The Township's Affordable Housing Spending Plan is hereby approved. The proposed expenditure of funds from the Township's Affordable Housing Trust Fund detailed therein is found and determined to be consistent with and authorized by the Fair Housing Act, and as such, those funds are properly committed for expenditure as required by the 2008 amendment to the Fair Housing Act, P.L. 2008, c. 46.
8. The Township is entitled to this Judgment of Compliance and Repose and immunity from exclusionary zoning lawsuits, including but not limited to "builder's remedy" lawsuits, for its Third Round Mount Laurel affordable housing obligations for a period of ten (10) years, retroactive to the date of the Township's filing of the instant action on June 29, 2015, with said protections extending through and expiring on June 29, 2025.
9. Subject to the preservation of the rights and responsibilities of the parties set forth in the settlement agreements, the Township may apply to the Court for an amendment to its Plan and implementing ordinances and/or Spending Plan.

10. Should the parties be unable to resolve any issue(s), an application may be made to the Court for relief on proper motion filed with notice provided to all parties. Otherwise, the Court does not retain further jurisdiction over this matter.

11. A copy of this Judgment shall be served on all counsel of record and the official service list within seven days of receipt by counsel for Petitioner, Township of Pennsville.



Hon. Anne McDonnell, J.S.C., P.J.

5 day - no opp

APPENDIX B

THIRD ROUND 2016/2024
FSHC SETTLEMENTS; 2017,
2025 COURT FAIRNESS ORDERS

Walter J. Ray ID# 017431975
 254 South Broadway; P.O. Box 406
 Pennsville, NJ 08070
 Phone (856) 678-4777; Fax (856) 678 6805
 Attorney for Declaratory Plaintiff, Township of Pennsville

Filed January 3, 2025
 Robert Malestein, P.J.Ch.
 Superior Court of New Jersey

**IN THE MATTER OF THE
 APPLICATION OF THE TOWNSHIP
 OF PENNSVILLE, COUNTY OF
 SALEM**

:
 : SUPERIOR COURT OF NEW JERSEY
 : LAW DIVISION
 : SALEM COUNTY
 : DOCKET NO.: L-119-15
 :
 : *Civil Case*
 :
 : **ORDER APPROVING AMENDED
 SETTLEMENT AGREEMENT**

THIS MATTER having been opened to the Court by Plaintiff, the Township of Pennsville, by and through its attorney Michael J. Napuda, Esquire (hereinafter the “Township”); and Ashley Lee, Esquire, of Fair Share Housing Center (hereinafter “FSHC”), a Supreme Court-designated interested party pursuant to the NJ Supreme Court’s decision in In Re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015); and FSHC and the Township having entered into an Amended Settlement Agreement (hereinafter the “Amended Agreement”); and the Court having set a date of December 18, 2024 for a Fairness Hearing to entertain approval of the Amended Agreement between the Township and FSHC, and to determine whether said Amended Agreement is fair, reasonable, and adequately protects the interests of low and moderate income households within the region; and the Township having provided proper public and actual notice of the Fairness Hearing; and no objections to the Amended Agreement having been received; and the Township’s counsel having submitted a Certification of Service to the Court on December 16, 2024, that proper notice of the Fairness Hearing had been given and that no objections had been received; and the Township’s Affordable Housing Planner, Mary Beth Lonergan, P.P., A.I.C.P., having prepared a Planner’s Fairness Report, dated

December 10, 2024, which was submitted to the Court on December 11, 2024, regarding the proposed Amended Agreement between FSHC and the Township; and the Fairness Hearing having been held on December 18, 2024; and the Court having considered the Township Planner's testimony taken during the Fairness Hearing, as well as the comments of counsel; and the Court having reviewed Ms. Lonergan's "Planner's Fairness Report" marked as "Court's Exhibit 1," the Amended Agreement entered into by both the Township and FSHC marked as "Court's Exhibit 2," and a Certification of Service produced by the Township marked as "Court's Exhibit 3," all of which were submitted into evidence during the Fairness Hearing; and the Court being satisfied that the parties are entitled to the relief sought; and good cause having been shown;

It is hereby ordered on this 3d day of January, ~~2024~~²⁰²⁵, as follows:

1. The Court finds and determines pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the Amended Agreement and the Township Planner's Fairness Report, and on the basis of the Township Planner's testimony taken during a Fairness Hearing conducted on December 18, 2024; that the Amended Agreement between the Township and FSHC is fair, reasonable, and adequately protects the interests of low and moderate income households within the region, and the Court hereby approves the Amended Agreement, the terms and conditions of which are hereby incorporated by reference.

2. The court finds that the Amended Settlement Agreement 1) reiterates the Township's three-part obligation including the reduction of the Third Round obligation to 234 units; 2) removes Sites #3 and #4, previously zoned for inclusionary development, as affordable housing compliance mechanisms; 3) replaces Sites #3 and #4 by reconfiguring the

former Site #9 into new Sites #9 and #10 with higher density inclusionary zoning on both sites and by permitting 100% affordable family housing on new Site #10; 4) permits a new 60-unit 100% affordable senior rental development adjacent to the existing Pennsville Towers 100% affordable senior development; and 5) details the limitations on the Township's existing public water and sewer capacities such that capacity will be reserved for the Township's remaining 55-unit Prior Round obligation.

3. The parties will discuss dates for a Compliance Hearing and contact the Court to schedule same.

4. All other terms and conditions in the Amended Agreement requiring action by the Township or the Township's Boards and FSHC will be adhered to, and all such terms and conditions are hereby incorporated by reference.

5. Counsel for the Township shall provide copies of this Order to all counsel of record within seven (7) days of receipt.

Robert G. Malestein, P.J.Ch.

Hon. Robert G. Malestein, P.J.Ch.

October 14, 2024

Michael Napuda, Esq.
Masten and Ray
254 S. Broadway
Pennsville, NJ 08070

**Re: In the Matter of the Application of the Township of Pennsville,
County of Salem, Docket No. SLM-L-119-15
AMENDMENT TO THE SETTLEMENT AGREEMENT**

Dear Mr. Napuda:

This letter memorializes the terms of an amendment (the "Amendment") to the Settlement Agreement ("Agreement") reached between the Township of Pennsville ("Township" or "Pennsville"), the declaratory judgment plaintiff, and Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this and earlier settlement agreements, a defendant in this proceeding.

This Amended Settlement Agreement was necessitated by the addition of a new, revised Site #9 and a new Site #10 and an expansion of the Pennsville Towers site to the Township's affordable housing plan and other necessary changes as further described below.

The Township and FSHC have entered into this Amendment because the parties agree that it will result more quickly in additional affordable housing units being constructed in the Township of Pennsville.

The Township and FSHC hereby agree to the following Amendment terms:

1. The 2016 court-approved Settlement Agreement remains binding and valid except as modified by this Amendment. Where a conflict exists between the 2016 Settlement Agreement and the Amendment, the Amendment shall control. For ease of reference, the 2016 Settlement Agreement is attached hereto as Exhibit A. The Parties will seek Court approval of this Amendment in the manner described in Paragraph 16 of the 2016 Settlement Agreement. The Township will then amend its court-approved 2017 Housing Element and Fair Share Plan ("HEFSP") accordingly and seek approval of the amended HEFSP at a final compliance hearing.
2. FSHC and Pennsville hereby agree that Pennsville's affordable housing obligations shall remain as set forth in the 2017 Judgment of Compliance and Repose ("JOR") attached hereto as Exhibit B, which are as follows:
 - a. Rehabilitation Share: 38
 - b. Prior Round obligation (N.J.A.C. 5:93): 228
 - c. Round 3 Obligation: 374 Per Dr. Kinsey as modified to 234 (and reflected herein) per the 2017 JOR which stated, "which was further reduced to 234 by virtue of Court-approved durational adjustment pursuant to N.J.A.C. 5:93-4.3."

3. The Township's approach to addressing its combined Prior Round and Third Round obligation of 462 units as described in Paragraphs 4 through 7 of the 2016 Agreement is hereby amended in the following ways:

- a. **Site #3** (Block 4504 Lot 7) and **Site #4** (Block 4504 Lot 21) as identified and described in the 2016 Agreement and 2017 HEFSP are being rezoned to permit single family market-rate residential uses and shall no longer produce a total of 53 affordable units (22 and 31 affordable housing units, respectively). These sites will instead generate an affordable housing residential development fee under the Township's Affordable Housing Development Fee Ordinance adopted on May 7, 2009.
- b. **New Sites #9 & #10** (replace Sites #3 and #4, as well as the prior 2017 court-approved Site #9 ("former Site #9")) – The Township designated property previously known as Block 4201, Lot 17 as former Site #9 in its 2017 HEFSP. The Township reserved approximately 70% of the buildable acres on former Site #9 for commercial development. Former Site #9's Affordable Housing Yield was 24 Affordable Units. Thus, the total affordable housing yield to be replaced from former Sites # 3, #4 and #9 is 77 affordable units (53 from Sites #3 and #4 and 24 from former Site #9). Former Site #9 was recently subdivided by the owner into two relatively equal sized tracts, with the subdivision line running perpendicular to Rt. 49. The northern subdivided tract is now known as Block 4201, Lot 17 (new Site #9) and the southern subdivided tract is now known as Block 4201, Lot 17.01 (new Site #10). An experienced affordable housing developer, Rukenstein, is under contract to purchase new Site #10 (Block 4201, Lot 17.01).

Within five (5) months of the date of this agreement, the Township agrees to amend its 2017 HEFSP and adopt an affordable housing zoning ordinance that would create new Site #10 on Block 4201, Lot 17.01 and new Site #9 on Block 4201, Lot 17 (from some or all of the buildable area that had been reserved for commercial development of the former Site #9) that would allow for the following: either 1) the development of a 100% Affordable project of 60 units on new Site #10 and the inclusionary development on new Site #9 of a maximum of 150 units with 30 affordable units (resulting in a total of 90 affordable units on new Site #10 and new Site #9 exceeding the previously required 77 total affordable housing yield from former Sites #3, #4 and #9); or, 2) if the contract-purchaser of Block 4201 Lot 17.01 is unsuccessful in securing funding for a 100% Affordable project within the next two subsequent 9% tax credit cycles or through a 4% tax credit application on new Site #10, then new site #10 shall be zoned for the development of an inclusionary project that includes a maximum of 275 units with at least 55 affordable units (rounded up). New Site #9 shall be zoned for the development of an inclusionary project that includes a maximum of 110 units with at least 22 affordable units. Under this alternative, there will be a total of 77 affordable units zoned on both new Site #9 and new Site #10, matching the previously required 77 total affordable housing yield from former Sites # 3, #4 and #9).

The Town shall not be obligated to fund the 100% Affordable project proposed on new Site #10 if the contract purchaser is unsuccessful in securing full outside funding per paragraphs _i_ and ii_ below regarding 100% Affordable

projects . If there is remaining acreage on both new Site #9 and new Site #10 in either scenario, it may be reserved for commercial development consistent with what has been previously contemplated in the 2017 HEFSP.

- i. The Township and FSHC acknowledge the requirements of N.J.A.C. 5:93-5.5, regarding adequate and stable funding for any non-inclusionary affordable housing developments. However, in light of the Township's present inability to satisfy such funding shortfall requirements, the Township shall rely on the realistic opportunity presented by the enhanced inclusionary zoning to be enacted as an alternative per the above. The municipality is required to provide the 100% affordable housing developer's pro forma of both total development costs and sources of funds and documentation of the funding available to the project sponsor, and any applications still pending as part of the future compliance plan.
 - ii. In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process, including preparation of a site plan, granting municipal approvals, application for State and Federal permits, selection of a contractor and construction. Rukenstein shall provide a proposed Construction Schedule and Pro Forma for the proposed project as part of the future compliance plan.
- c. Directly adjacent to the existing **Pennsville Towers** site (40 Eaton Road – Block 3101, Lot4) a stabilized 99-unit, 100% affordable senior rental development in the Township, it is anticipated that a new all affordable senior rental building at the of 60 units will be developed as a distinct, stand-alone community ("Pennsville Towers Phase II"). The existing affordable senior rental complex was built in 1984 through HUD 202 funding and the owner noted that there is a significant waiting list of seniors. The owner may apply for HUD funding or LIHTC ('tax credit') funding from HMFA for the development the Phase II community. Although the Township currently has maximized the number of eligible senior affordable credits for the Third Round, the Township would be eligible for a new round of senior affordable credits in the Fourth Round (about one year away) and the production of 60 additional senior affordable units at Pennsville Towers Phase II may also help to free up some portion of any one-bedroom affordable units that will be open to all ages (including seniors) at the new Sites 9 and 10 affordable housing project.

The Township has very little water capacity remaining for future development. Pennsville's water capacity is limited by a Water Allocation Permit issued by DEP, which permit is not expected to be expanded under any circumstances. As such, the Township was granted a Durational Adjustment of its Third Round affordable obligation under the 2016 Agreement and subsequent Court Orders. Also, per the 2016 Agreement, the Township reserved water and sewer capacity for 55 affordable units to address its affordable obligation balance of the Prior Round (time period 1986-1999). The total water usage reserved for the aforementioned 55 affordable units (20% of a total of 275 housing units) is 82,500 gpd based on $275 \times 300 \text{ gpd} = 82,500 \text{ gpd}$. It is anticipated, at this time, that the 55 affordable unit reservation (or a total of 275 total housing units) will be partially utilized on proposed new Site #10. See chart below:

Prior Round Required Water Reservation = 55 affordable units	Total Housing Units	Water Usage per Unit	Total Water By Day
55 affordable units at 20%	275	300 gpd	82,500 gpd

The Township, in consideration of the approaching water capacity limit, has recently taken steps to ensure its compliance with the DEP Water Allocation Permit and to ensure a fair and organized process by which the remaining water capacity is allocated. With regard to the "fair and organized" process, Pennsville enacted a policy whereby potential developers must submit an application and pay a fee for water to be reserved for their project. Even then, the reservation of capacity is only valid for six (6) months. Without an approved application, potential developers are not guaranteed water for their project. The Township enacted this policy because it did not want developers to expend significant resources on exploring projects in Pennsville only to eventually find that there was no water, whereas when exploring development in other towns, developers might just assume that water will be available.

Additionally, Pennsville recalculated its excess water capacity by averaging its peak demand months for 2020 (June), 2021 (August), 2022 (August), and 2023 (June), subtracting that from its current monthly allocation, and subtracting from that difference the anticipated demands for unfinished projects for which water allocation has been approved. The analysis starts in "gallons per month" and ends in "gallons per day" for two reasons: 1) monthly usage is what is monitored and regulated by the DEP, and; 2) daily usage is what is customarily used by the Township when discussing water capacity on a day-to-day basis with developers and among professionals outside of the DEP compliance realm. See chart below:

AVG PEAK DEMAND 2020-2023	Current Monthly Allocation	Excess Monthly Allocation	Monthly Demand for Approved Projects	Excess Capacity Gallons per Day (gpd)
47,295,000 gallons per month (gpm)	54,250,000 gpm	6,955,000 gpm	6,020,000 gpm	30,161 gpd

The Township must be aware, however, that the 30,161 gpd figure is the theoretical absolute maximum remaining capacity. The Township is left to govern itself as to how much of the remaining capacity is in fact allocated and it is not able to allocate all of it. A higher-than-average month would result in DEP fines and penalties if the Township does not maintain an allocation buffer. Therefore, the Township is committed to maintaining an allocation buffer of at least 15,080 gpd.

The aforementioned "anticipated demands" consist primarily of the following significant projects:

Anticipated Water Demands of Significant Projects	Total Housing Units	Water usage per unit	Total water by day
Warehouse	n/a	n/a	50,000 gpd
Pennsville Towers Phase II	100 senior 1-BR	200 gpd	20,000 gpd
Sites #3/#4	125 market	300 gpd	37,500 gpd

No portion of the Township's 55 affordable unit reservation of water and sewer capacity is specifically assigned to the new Site #10 by this agreement. The Township's 55 affordable unit reservation of water and sewer capacity shall be allocated on a first come-first served basis to affordable housing development at any of the Township's affordable housing sites. This agreement, however, evidences the Township's current expectation that the new Site #10 will be the next affordable project to actually be developed.

If new Site #10 is developed as a 60 unit 100% Affordable project as anticipated by this agreement, those 60 units will fall within the 275 total unit water/sewer capacity reservation. The Township will have met its obligation of providing water and sewer to its prior round obligation of 55 affordable units without utilizing the entire 275 total unit water/sewer reservation, thus leaving 215 units of excess water/sewer capacity. The Township agrees to re-allocate 150 total units, of which 30 will be affordable, of water/sewer capacity back to a COAH reservation, with the rest of the 65 unit excess to be utilized by the Township in any manner it sees fit. If new Site #10 is developed instead as an inclusionary project, the Township's current water/sewer reservation of 275 total/55 affordable units will remain in place and available to the first inclusionary developer that utilizes some or all of it, which given the current development interests in Pennsville, would be on new Site # 10. Pennsville Towers Phase II, as stated previously herein, is anticipated to be a 60 unit project and the developer of same is pursuing funding therefore. The developer, earlier in its investigation of the site and through the proper municipal channels, reserved water capacity for 100 units. The anticipated 60 unit project would fall within the previously reserved 100 units of water capacity.

4. Pursuant to Paragraph 8.f. of the 2016 Agreement, the 2017 HEFSP shall be amended to require 13% very low-income units or at least 7 of the 55-unit balance of the Prior Round affordable housing obligation anticipated to be developed as very low income family affordable rentals. In addition, all future family or senior affordable rental 100% developments (including any expansion of the Pennsville Senior Towers Phase II) or inclusionary rental developments shall provide 13% as very low-income rental units.
5. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from UHAC pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:
 - a. Regional income limits shall be established for the region that the Township is located within (Region 6) 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 Township'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 percent 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 percent 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 percent 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. In no event shall the income limits be less than those for the previous year.

- b. The income limits prepared by the Affordable Housing Professionals of New Jersey ("AHPNJ") attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for fiscal year 2024, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year. The Township may continue to use the updated AHPNJ income limits each year, if available.
 - c. 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 Township 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. The Township may continue to use the updated AHPNJ income limits including the Regional Asset Limit each year, if available.
 - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Amendment.
6. In all developments that produce affordable housing, the Township agrees that the following terms shall apply:
- a. All of the affordable units shall fully comply with UHAC, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low-income households earning thirty percent (30%) or less of median income pursuant to the Fair Housing Act.
 - b. All of the affordable units shall be subject to affordability controls of at least thirty (30) years for sale units and at least 40 years for rental units from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole

exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Township, in its sole discretion, takes action to extend or release the for-sale unit from such controls after at least thirty (30) years and the rental unit from such controls after at least forty (40) years. If the Township acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the income-eligible occupant household in accordance with N.J.A.C. 5:80-26.11(b).

- c. In inclusionary developments with similar market-rate and affordable unit type and tenure, the affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
 - d. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
 - e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified herein: _ Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network, Gloucester County and Salem County Branches of the NAACP, Senior Citizens United Community Services (S.C.U.C.S.), and the Supportive Housing Association; and it shall also include posting of all affordable units on the New Jersey Housing Resource Center ("HRC") website in accordance with applicable law.
- 7. Pennsville shall notify the Court so that a Fairness Hearing can be scheduled as soon as possible to approve the Amended Agreement. At a later date, the Township shall notify the Court so that a Compliance Hearing can be scheduled to review and approve the Township's amended Housing Element and Fair Share plan and necessary supplemental documentation.
 - 8. Within 45 days of the entry of an Order approving this Amended Settlement Agreement at a duly noticed Fairness Hearing, the Township shall pay to FSHC as a donation for the advancement of affordable housing in the amount of \$7,500 in addition to any sums previously provided.
 - 9. Pursuant to the terms of the Amendment Agreement, the Township shall amend its Housing Element and Fair Share Plan, zoning ordinance, Spending Plan (if necessary), and provide all of the information required for new Site #9 and #10 to be consistent with the terms of this Agreement Amendment.
 - 10. All other terms of the 2016 settlement agreement between FSHC and the Township of Pennsville that was approved by the court on January 27, 2017 shall remain in full force and effect. Notices shall be provided as follows:

TO FSHC:

Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Michael Napuda, Esq.
Masten and Ray
254 S. Broadway
Pennsville, NJ 08070

**WITH A COPY TO THE
MUNICIPAL CLERK:**

Angela Foote, Clerk
Town Hall
90 North Broadway
Pennsville, NJ 08070

Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Defendant
Fair Share Housing Center

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



Daniel J. Neu, Mayor
Township of Pennsville

Dated: 10-15-2024

Walter J. Ray ID# 017431975
254 South Broadway; P.O. Box 406
Pennsville, NJ 08070
Phone (856) 678-4777; Fax (856) 678 6805
Attorney for Declaratory Plaintiff, Township of Pennsville

FILED

JAN 27 2017

Anne McDonnell, P.J.Ch.

**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF PENNSVILLE, COUNTY OF
SALEM**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SALEM COUNTY
DOCKET NO.: L-119-15

Civil Case

**ORDER APPROVING SETTLEMENT
AGREEMENT**

THIS MATTER having been opened to the Court by Plaintiff, the Township of Pennsville, by and through its attorney Walter J. Ray, Esquire (hereinafter the "Township"); and Joshua Bauers, Esquire, of Fair Share Housing Center (hereinafter "FSHC"), a Supreme Court-designated interested party pursuant to the NJ Supreme Court's decision in In Re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015); and FSHC and the Township having entered into a Settlement Agreement (hereinafter the "Agreement"); and the Court having set a date of January 12, 2017 for a Fairness Hearing to entertain approval of the settlement between the Township and FSHC, and to determine whether said settlement agreement is fair, reasonable, and adequately protects the interests of low and moderate income households within the region; and the Township having provided proper public and actual notice of the Fairness Hearing; and no objections to the Agreement having been received; and the Township's counsel having submitted a Certification of Publication and Certification of Service to the Court on January 11, 2017 that proper notice of the Fairness Hearing had been given and that no objections had been received; and the Township's Affordable Housing Planner, Mary Beth Lonergan, P.P., A.I.C.P., having submitted a report to the Court on January 10, 2017 regarding the proposed

settlement between FSHC and the Township; and the Fairness Hearing having been held on January 12, 2017; and the Court having considered the Township Planner's testimony taken during the Fairness Hearing, as well as the comments of counsel; and the Court having reviewed Ms. Lonergan's "Planner's Report" marked as "P1," a map produced by Ms. Lonergan entitled "Existing/Proposed Inclusionary Zoning & Existing Affordable Housing Sites" marked as "P2," the Agreement entered into by both the Township and FSHC marked as "P3," a Certification of Publication produced by the Township marked as "P4," and a Certification of Service produced by the Township marked as "P5," all of which were submitted into evidence during the Fairness Hearing; and the Court being satisfied that the parties are entitled to the relief sought; and good cause having been shown;

It is hereby ordered on this 27th day of January, 2017, as follows:

1. The Court finds and determines pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the Agreement and the Township Planner's report, and on the basis of the Township Planner's testimony taken during a Fairness Hearing conducted on January 12, 2017; that the Settlement between the Township and FSHC is fair, reasonable, and adequately protects the interests of low and moderate income households within the region, and the Court hereby approves the Settlement Agreement, the terms and conditions of which are hereby incorporated by reference.

2. The court finds that the Settlement Agreement establishes the Township's third round present need as 38, confirms the Township's prior round obligation as 228, and establishes a third round prospective need as 376 with a durational adjustment applied thereto in accordance with N.J.A.C. 5:93-4.3 and due to the Township's limited fiscal capabilities and

the limited additional firm water and sewer capacity approved by the Department of Environmental Protection ("DEP") as further modified by the terms of the Agreement.

3. As stipulated by the terms of the agreement, the Township is purposefully siting possible future inclusionary developments and shall not be required to have overlay zoning as set forth in N.J.A.C. 5:93-4.3(b), nor shall the Township be required to amend its compliance plan to provide additional inclusionary zoning pursuant to N.J.A.C. 5:93-4.3(c) other than the nine (9) existing and proposed inclusionary zoning sites denoted in the Agreement.

4. As stipulated by the parties, the Township and FSHC will execute an amendment to paragraph nine (9) of the Agreement extending the deadline for compliance from 45 days to 150 days.

5. All other terms and conditions in the Agreement requiring action by the Township or the Township's Boards and FSHC will be adhered to, and all such terms and conditions are hereby incorporated by reference.

6. Counsel for the Township shall provide copies of this Order to all counsel of record within seven (7) days of receipt.



Hon. Anne McDonnell, J.S.C., P.J.



Peter J. O'Connor, Esq.
Kevin D. Walsh, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammner, Esq.
Joshua D. Bowers, Esq.

November 10, 2016

Mayor Richard Barnhart
Town Hall
90 North Broadway
Pennsville, NJ 08070

**Re: In the Matter of the Application of the Township of Pennsville,
County of Salem, Docket No.SLM-L-119-15**

Dear Mr. Barnhart:

This letter memorializes the terms of an agreement reached between the Township of Pennsville (the Township or "Pennsville"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Pennsville received second and third round substantive certifications from COAH. The Township's certified plans included five (5) inclusionary zoning sites (Sites #1-#5) which permitted an inclusionary development density of 4 du/acre and with a small lot single-family detached housing type. The Township enacted the certified inclusionary zoning in 2006. The existing inclusionary zoning on the five (5) sites was previously expected to generate 133 affordable housing units. By virtue of subsequent DEP environmental regulatory changes and rulings, the affordable unit yield from these sites would drop to 51 affordable units without future zoning changes by the Township.

Pennsville filed the above-captioned matter on June 29, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. In May 2016 FSHC recalculated the Township's third round obligation at 38 third round rehabilitation, 228 prior round obligation and 537 third round prospective need (down from 551 in the July 2015 report). The Township participated in mediation efforts with FSHC in the hopes of settling on a third round fair share obligation. Through that process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of the attached fair share plan, Exh. A, and the implementation of that plan and this agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. for the Prior Round (1987-1999) and Third Round (1999-2025).

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. For settlement purposes only, Pennsville and Fair Share Housing Center hereby agree that Pennsville's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	38
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	228
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this settlement agreement)	376

4. Due to the Township's limited fiscal capabilities and the limited additional firm water and sewer capacity approved by the Department of Environmental Protection (hereinafter referred to as DEP), the Township will request a durational adjustment (NJAC 5:93-4.3) of only its third round prospective need obligation as part of its revised third round Housing and Fair Share plan. The Township proposes to reserve water and sewer capacity for the 55 affordable units required to fully address its 228-unit prior round obligation. [NJAC 5:93-4.3(c) states "The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal housing obligation. The requirement to address the municipal housing obligation shall be deferred until adequate water and/or sewer are made available."] The Township reserves the right to demonstrate through a fiscal analysis as described in NJAC 5:93-4.3(d), that the cost of providing additional water and/or sewer (above and beyond the commitment for water and sewer capacity for 55 affordable units as part of the prior round obligation) to sites identified in paragraphs six and seven below (third round sites) is cost prohibitive to the Township, thus limiting the Township's "fiscal responsibility of providing water and/or sewer" to the Third Round Inclusionary sites.
5. To account for the DEP regulatory changes, the Township proposes to significantly increase the density on each of the Township's initial certified inclusionary Sites #1-#5 and will allow attached, multi-family housing on each site. Specific to Site #5, multi-family rental flats will be allowed. With the density increase and addition of a multi-family product type, the Township anticipates inclusionary Sites #1-#5 may generate approximately 151 affordable units.
6. In addition to existing inclusionary Sites #1-#5, the Township proposes inclusionary residential zoning on three (3) new sites (Tax Block 1101, Lot 31; Block 4301, Lot 40; Block 4301, Lot 41) and proposes mixed use zoning (commercial and inclusionary residential) on one (1) additional new site (Tax Block 4201, lot 17). The mixed use zoning will provide for 70% of the developable acreage (closest to Route 49) for commercial development and will require inclusionary residential zoning on the rear 30% of the tract's developable acreage. The Township anticipates that these four (4) new sites may generate approximately 90 affordable housing units if said potential

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

inclusionary developer(s) finance the necessary upgrades to the Township's infrastructure.

7. The parties agree that with the addition of four (4) new inclusionary sites to the existing five (5) inclusionary sites, the Township is purposefully siting possible future inclusionary developments and shall not be required to have overlay zoning as set forth in NJAC 5:93-4.3(b) which states "If the Council (COAH) determines that a site may not receive water and/or sewer during the period of substantive certification, the Council shall not require inclusionary zoning, but may require overlay zoning requiring inclusionary development (if water and sewer become available) and/or the imposition of a development fee consistent with NJAC 5:93-8" and with NJAC 5:93-4.3(c) 4 further stating "Where a municipality has designated sites for low and moderate income housing that lack adequate water and sewer and where DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing." Regardless of the aforementioned provisions, the Township's inclusionary sites shall be limited to the nine (9) sites noted above.
8. The Township shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
 - f. The Township agrees to require 13% of all units referenced in this plan, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval, to be very low income units, with half of the very low income units being available to families.

9. As an essential term of this settlement, within forty five (45) days of Court Approval of this Settlement Agreement, the Township shall introduce an ordinance providing for the amendment of the Township's Housing Ordinance to implement the terms of this settlement agreement and the zoning contemplated herein.
10. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.
11. The parties agree that if a court of competent jurisdiction in Salem County, or an administrative agency responsible for implementing the Fair Housing Act, calculates an obligation for the Township for the period 1999-2025 that is lower by more than twenty (20%) percent of the total prospective Third Round need obligation established in this agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter. Notwithstanding any such reduction, the Township shall be obligated to implement the fair share plan attached hereto, including by leaving in place any site specific zone changes made or continued in connection with the plan approved pursuant to this settlement agreement; taking all steps necessary to support the development of 100% affordable developments referenced herein and otherwise fulfilling fully the fair share obligations established herein. The reduction of the Township's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for the Third Round, the Township may carryover any resulting extra credits to future rounds in conformance with the then-applicable law.
12. Prior to the final compliance hearing, the Township shall prepare a spending plan that shall incorporate all of the requirements of the within agreement (the "2016 Spending Plan"). FSHC may comment on or object to the approved Spending Plan. The Spending Plan shall be subject to the review and approval of the Court at the final compliance hearing. Upon approval of the 2016 Spending Plan, the parties agree that the expenditures of funds contemplated under the agreement constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of final judgment approving this settlement in accordance with the provisions of In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015)(aff'd 442 N.J. Super. 563). The parties to this agreement agree that this spending plan is valid and should be approved by the court. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Township agrees to provide annual monitoring of the 'affordable housing development fee (residential and mandatory statewide non-residential)' trust fund activity to the Court, Special Master, and Fair Share Housing Center, and all entities on the affirmative marketing list in this agreement, using forms previously developed for this purpose by the Council on Affordable Housing. The monitoring shall include an accounting of any housing trust fund activity, including the

source and amount of funds collected and the amount and purpose for which any funds have been expended. The parties recognize that the expenditure of trust fund fees on administrative costs is capped at 20%. The parties further recognize that in all filings before the Court, the Township filed to affirmatively comply with the Third Round obligation, and no legal or planning expenses by the Township were created in an effort to avoid its obligation, litigate the appropriateness of a site for inclusion in the plan, or the like.

13. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Township agrees to provide annual monitoring of affordable housing activity to the Court, Special Master, and Fair Share Housing Center, and all entities on the affirmative marketing list in this agreement, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
14. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this agreement. The Township agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review as of July 1, 2020 as required pursuant to N.J.S.A. 52:27D-313, the Township will provide to the Court, with notice to Fair Share Housing Center and other interested parties identified in this agreement, including all entities on the affirmative marketing list in this agreement, a status report as to its implementation of its Fair Share Plan and any comments as to whether any unbuilt sites continue to present a realistic opportunity with the opportunity for any interested party to submit comments and request a hearing before the court as to whether any sites no longer present a realistic opportunity and should be replaced.
 - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, the Township will provide to the Court, with notice to Fair Share Housing Center and other interested parties identified in this agreement, including all entities on the affirmative marketing list in this agreement, a status report as to its satisfaction of its very low income requirements, including family low income requirements referenced herein, with the opportunity for any interested party to submit comments and request a hearing before the court as to whether the municipality has complied and whether any corrective actions should be taken.
15. A condition of this agreement is that FSHC shall be granted as part of any final judgment party status in this matter and shall be deemed to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading.
16. This settlement agreement must be approved by a court prior to going into effect through a fairness hearing process, as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to not challenge the attached fair share plan in court during any fairness hearing in which it is reviewed. FSHC agrees that the municipality may receive the "judicial equivalent of

substantive certification" in accordance with the Supreme Court's decision in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1,30 (2015).

17. This settlement agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Salem County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
18. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
19. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
20. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
21. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
22. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
23. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
24. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
25. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
26. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
27. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals

of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: kevinwalsh@fairsharehousing.org

TO THE TOWNSHIP:

Walter J. Ray, Solicitor for the Township of Pennsville
Masten and Ray
254 S. Broadway, PO Box 406
Pennsville, NJ 08070

**WITH A COPY TO THE
MUNICIPAL CLERK:**

Angela Foote, Clerk
Town Hall
90 North Broadway
Pennsville, NJ 08070

Please sign below if these terms are acceptable.

Sincerely,



Kevin D. Walsh, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

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



Richard Barnhart, Mayor

Dated: 11-15-2016

APPENDIX C

FOURTH ROUND OBLIGATION DOCUMENTATION

FILED

April 28, 2025

Hon. Robert G. Malestein, P.J.Ch.

The Hon. ROBERT G. MALESTEIN, P.J.Ch.

Superior Court of New Jersey
Law Division – Civil Part
GLOUCESTER COUNTY
Gloucester County Courthouse
1 N. Broad Street
Woodbury, New Jersey 08096

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TWP OF
PENNSVILLE, SALEM
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
SALEM COUNTY
DOCKET NO. SLM-L-13-25

Civil Action

Mt. Laurel Program

**ORDER FIXING MUNICIPAL
OBLIGATIONS FOR “PRESENT NEED”
AND “PROSPECTIVE NEED” FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on JANUARY 17, 2025 (“DJ Complaint”) by the Petitioner, TOWNSHIP of PENNSVILLE (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled “*Affordable Housing Obligations for 2025-2035 (Fourth Round)*”,¹ therein setting forth the “present need” and prospective need” obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

AND IT APPEARING that, pursuant to the DCA’s Fourth Round Report, the “**present need**” obligation of the Petitioner has been calculated and reported as 69 affordable units, and its “**prospective need**” obligation of the Petitioner has been calculated and reported as 46 affordable units, and which calculations have been deemed “presumptively valid” for purposes of the FHA;

AND THE COURT, having determined that no “interested party” has filed a “challenge” to the Petitioner’s DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

AND THE COURT, having found and determined, therefore, that the “present need” and “prospective need” affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA’s Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

IT IS, THEREFORE, on this 28th day of **APRIL 2025 ORDERED AND ADJUDGED** as follows:

1. That the “present need” obligation of the Municipality, be, and hereby is fixed as 69 affordable units for the Fourth Round housing cycle.

¹ See https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

2. That the “prospective need” obligation of the Municipality, be, and hereby is fixed as 46 affordable units for the Fourth Round Housing cycle; and

3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay..

IT IS FURTHER ORDERED, that any and all “challenges” to the Petitioner’s housing element and fair share plan as adopted pursuant to Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this Docket No. #SLM-L-13-25, and as provided for and in accordance with Section III.B of Directive #14-24; and

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner’s counsel and the Program Chair upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

Robert G. Malestein, P.J.Ch.

HON. ROBERT G. MALESTEIN, P.J.Ch.
Designated Mt. Laurel Judge – Vicinage 15

(X) Uncontested.

Michael J. Napuda, Esq. 114222014
MASTEN AND RAY
254 South Broadway; P.O. Box 406
Pennsville, NJ 08070
Phone (856) 678-4777; Fax (856) 678 6805
Attorney for Declaratory Plaintiff, Township of Pennsville

**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF PENNSVILLE, COUNTY OF
SALEM**

:
:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: SALEM COUNTY
: DOCKET NO.:
:
: *Civil Case Type 816 (Affordable Housing)*
:
: **COMPLAINT FOR FOURTH ROUND**
: **DECLARATORY RELIEF**

Declaratory Plaintiff, the Township of Pennsville (hereinafter “Township” or
“Pennsville”), a municipal corporation of the State of New Jersey, with principal offices
located at 90 North Broadway, Pennsville, New Jersey 08070, in the County of Salem, by way
of Complaint for Declaratory Judgment says:

FOURTH ROUND CERTIFICATE OF COMPLIANCE

1. On March 20, 2024, Governor Philip D. Murphy signed into law P. L. 2024, c.2, which substantially amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA").
2. The Amended FHA required the Department of Community Affairs ("DCA") to produce non-binding estimates of Fourth Round present and prospective need on or before October 20, 2024.

3. The DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA.
4. The DCA Report calculates the Township of Pennsville's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 69 and a Prospective Need or New Construction Obligation of 46.
5. The Amended FHA has established a January 31, 2025 deadline for municipalities to determine and accept its Fourth Round present and prospective affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing a resolution, attached hereto as Exhibit A, with the Affordable Housing Dispute Resolution Program ("Program").
6. The Township of Pennsville, by passing the Resolution attached hereto, commits to the Fourth Round Present Need and Prospective Need numbers produced by DCA and acknowledges that its fair share of affordable housing is cumulative, meaning it must also address the Prospective Need Obligations from the First, Second and Third Rounds, reflective of the prior Court-approved durational adjustments of some portion of its Prospective Need Obligations, as well as address the Fourth Round Present and Prospective Need.
7. In addition to the Resolution required by the Amended FHA, the Acting Administrative Director of the Courts issued Administrative Directive #14-24, dated December 13, 2024, and made available on December 18, 2024, mandating that a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the

municipal resolution of fair share obligations (i.e. Exhibit A), or by February 3, 2025, whichever is sooner.

8. The Township of Pennsville reiterates its determination to voluntarily comply with the Amended FHA in order to maintain immunity from exclusionary zoning litigation and, thus, the Township files this Declaratory Relief action, in voluntary compliance with the requirement of the Administrative Directive #14-24, seeking a Fourth Round Compliance Certification.

9. Substantial activity has occurred, and still continues to occur, surrounding the Amended FHA since the legislation was signed into law that warrants the Township of Pennsville explicitly reserving certain rights to avoid any claim that it has waived them by filing this Declaratory Relief action.

10. The Amended FHA specifically provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311m) of which the municipality intends to utilize in the crafting of its Fourth Round Housing Element and Fair Share Plan.

11. The Township of Pennsville reserves all rights to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such relevant action that alters the deadlines and/or requirements of the Amended FHA.

12. In the event of a third-party challenge of the calculations provided for in this Resolution, the Township of Pennsville reserves the right to take such position as it deems appropriate.

PENNSVILLE'S HISTORY OF VOLUNTARY COMPLIANCE

13. The Township voluntarily complied with its Third Round affordable housing fair share obligations pursuant to the NJ Supreme Court's Mt. Laurel IV decision, see In re Adoption of N.J.A.C. 5:96 & 5:97, 215 N.J. 578 (2013); In re Adoption of 5:96 & 5:97, 221 N.J. 1 (2015).
14. Pennsville filed an action for declaratory judgment pursuant to In re Adoption of 5:96 & 5:97, 221 N.J. 1 (2015), which declaratory judgment action was entitled In the Matter of the Application of the Township of Pennsville, Docket No. SLM-L-119-15. Judge Anne McDonnell, P.J.Ch., (now retired), on January 27, 2017, approved a Settlement Agreement entered in between the Township and Fair Share Housing Center ("FSHC"). The Settlement Agreement, in summary, established Pennsville's three-part Third Round obligation as follows: 38-unit Third Round rehabilitation share; 228-unit Prior Round obligation; 376-unit Third Round prospective need as modified through a durational adjustment.
15. On December 19, 2017, Judge McDonnell approved Pennsville's 2017 Third Round Housing Element and Fair Share Plan and issued the Township a Final Judgment of Compliance and Repose, which Judgment found that the Township has addressed its 228-unit Second Round new construction obligation (now known as the Prior Round obligation) with prior cycle credits, a completed 100% affordable housing site, existing adopted inclusionary zoning sites and rental bonuses, and which Judgment further reduced Pennsville's Third Round prospective need to 234 and noted "a duration adjustment applied thereto in accordance with N.J.A.C. 5:93-4.3 and due to the Township's limited fiscal capabilities and the limited additional firm water and sewer capacity approved by the New Jersey Department of

Environmental Protection (“NJDEP”) as further modified by the terms of the agreement,” and which Judgment found that the Township has addressed its 234-unit Third Round new construction obligation with a completed 100% affordable housing site, adopted inclusionary zoning sites, rental bonuses and a durational adjustment.

WHEREFORE, Petitioner, the Township of Pennsville, respectfully requests that the Court enter judgment as follows:

- a. Recognizing the Township of Pennsville’s Binding Fair Share Obligation Resolution, attached hereto, committing to address the Township’s Fourth Round Present Need and Prospective Need numbers calculated in the DCA Report, which Township’s Declaratory Judgment filing timely addressed the deadlines established by the Amended FHA and the Administrative Directive #14-24 and affords the Township immunity from exclusionary zoning litigation.
- b. Establishing the Township of Pennsville’s Fourth Round obligation as follows:
69-unit Present Need or Rehabilitation Obligation; 46-unit Prospective Need or New Construction Obligation.
- c. Declaring and granting the Township of Pennsville a Durational Adjustment of some or all of its Fourth Round obligation pending the Township’s future preparation and submission of its Fourth Round housing element and fair share plan by the Program’s June 30, 2025 deadline.
- d. Declaring and granting the Township of Pennsville a Fourth Round Compliance Certification.

- e. Awarding such other and further relief as the Court may deem equitable and just.

MASTEN AND RAY
Attorney for Petitioner

Dated: 1-17-2025

s/ Michael J. Napuda
Michael J. Napuda, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of New Jersey Court Rule 4:25-4, Michael J. Napuda, Esquire, is hereby designated as trial counsel for Petitioner, Township of Pennsville.

MASTEN AND RAY
Attorney for Petitioner

Dated: 1-17-2025

s/ Michael J. Napuda
Michael J. Napuda, Esq.

RULE 1:38-7 CERTIFICATION

I hereby certify that confidential personal identifiers have been redacted from the documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

MASTEN AND RAY
Attorney for Petitioner

Dated: 1-17-2025

s/ Michael J. Napuda
Michael J. Napuda, Esq.

RULE 4:5-1 CERTIFICATION

Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to the best of my knowledge, information, and belief, the matter in controversy is not the subject of any other action currently pending or contemplated in any court or arbitration proceeding, and that I know of no other party or parties at this time who should be joined, pursuant to Rule 4:28, or who are subject to joinder pursuant to Rule 4:29-1(b), in this action.

MASTEN AND RAY
Attorney for Petitioner

Dated: 1-17-2025

s/ Michael J. Napuda
Michael J. Napuda, Esq.

**TOWNSHIP OF PENNSVILLE
RESOLUTION 62-2025**

Title: A Resolution of the Mayor and Members of the Township Committee of the Township of Pennsville Establishing the Township's Fourth Round Present and Prospective Need Pursuant to the Fair Housing Act as Calculated by the New Jersey Department of Community Affairs.

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed into law P. L. 2024, c.2, which substantially amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to produce non-binding estimates of Fourth Round present and prospective need on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Township of Pennsville's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 69 and a Prospective Need or New Construction Obligation of 46; and

WHEREAS, the Amended FHA has established a January 31, 2025 deadline for municipalities to determine and accept its Fourth Round present and prospective affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing this resolution with the Affordable Housing Dispute Resolution Program ("Program"); and

WHEREAS, the Township of Pennsville is determined to address the January 31, 2025 deadline established in the Amended FHA for the acceptance of the DCA-calculated Fourth Round affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing this resolution (**within 48 hours of resolution adoption**) with the Program; and

WHEREAS, the Township of Pennsville commits to the Fourth Round Present Need and Prospective Need numbers produced by DCA and acknowledges that its fair share of affordable housing is cumulative, meaning it must address the Prospective Need Obligations from the First, Second and Third Rounds, reflective of the prior Court-approved durational adjustments of its Prospective Need Obligations; and

RESOLUTION 62-2025

WHEREAS, the Township of Pennsville shall apply for a durational adjustment of some or all of its Fourth Round Prospective Need as part of its Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, notwithstanding the foregoing, substantial activity has occurred surrounding the Amended FHA and is ongoing since the legislation was signed into law that warrants the Township of Pennsville explicitly reserving certain rights to avoid any claim that it has waived them; and

WHEREAS, the Amended FHA specifically provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311.m. of which the municipality intends to utilize in the crafting of its Housing Element and Fair Share Plan; and

WHEREAS, the Township of Pennsville reserves all rights to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such relevant action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event of a third-party challenge of the calculations provided for in this Resolution, the Township of Pennsville reserves the right to take such position as it deems appropriate; and

WHEREAS, in light of the above, the Township of Pennsville finds that it is in the best interest of the Township of Pennsville to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Courts issued Administrative Directive #14-24, dated December 13, 2024, and made the directive available on December 18, 2024; and

WHEREAS, pursuant to Administrative Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Township of Pennsville reiterates its determination to voluntarily comply with the Amended FHA in order to maintain immunity from exclusionary zoning litigation and, thus, the Township will also voluntarily comply with the requirement of the Administrative Directive #14-24 to file a declaratory relief action in Superior Court which shall be viewed by both the Program and/or the Courts as the Township specifically seeking a certification of compliance with the Amended FHA so as to avail itself of all rights and privileges of voluntary compliance with the Amended FHA; and

RESOLUTION 62-2025

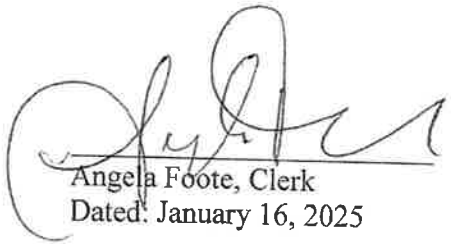
WHEREAS, the Township of Pennsville seeks a Fourth Round certification of compliance with the Amended FHA and, therefore, directs its Township Attorney to file a declaratory relief action within 48 hours of the adoption of this resolution in Salem County.

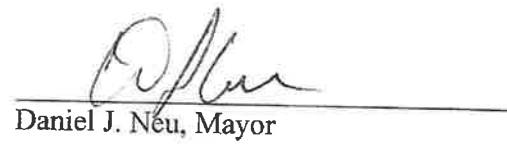
NOW, THEREFORE, BE IT RESOLVED, on this 16th day of January 2025 by the Township Committee of the Township of Pennsville, Salem County, State of New Jersey, as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this resolution as if set forth in full.
2. The Township Committee of the Township of Pennsville hereby commits acceptance of the DCA Fourth Round Present Need Obligation of 69 and the Prospective Need Obligation of 46 described in this Resolution, subject to all reservations of rights, which specifically include:
 - a. The right to adjust its obligations in the event of any future legislation that adjusts the obligations the DCA reported on October 18, 2024;
 - b. The right to adjust its obligations based upon binding litigation; and
 - c. The right to take such position as it deems appropriate in any third-party challenge.
3. The Township Committee of the Township of Pennsville hereby directs its Township Attorney to file a declaratory judgment complaint in Salem County within 48 hours after adoption of this resolution attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.
4. The Township Committee of the Township of Pennsville further directs its Township Attorney to file the declaratory judgment complaint within 48 hours after adoption of this resolution with the Dispute Resolution Program or any other such entity as may be determined to be appropriate, and attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.
5. The Township Committee of the Township of Pennsville further directs its Township Clerk to post a copy of the declaratory judgment complaint within 48 hours after adoption of this resolution on the Township website, and attaching this resolution which describes the method whereby DCA calculated its affordable housing obligations.

This resolution shall take effect immediately according to law.

RESOLUTION 62-2025


Angela Foote, Clerk
Dated: January 16, 2025


Daniel J. Neu, Mayor

Record of Vote

Member	Aye	Nay	N.V.	A.B.	Res.	Sec.
Dyer	X					X
Fitchett	X					
Hourigan	X				X	
Thompson	X					
Neu	X					

X indicates N.V.-Not Voting A.B.-Absent Res.-Resolution Moved Sec.-Resolution Seconded

Civil Case Information Statement

Case Details: SALEM | Civil Part Docket# L-000013-25

Case Caption: IN THE MATTER OF PENNSVILLE TWP

Case Initiation Date: 01/17/2025

Attorney Name: MICHAEL JAMES NAPUDA

Firm Name: MASTEN & RAY

Address: 254 SOUTH BROADWAY PO BOX 406

PENNSVILLE NJ 08070

Phone: 8566784777

Name of Party: PLAINTIFF : Pennsville Township

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: AFFORDABLE HOUSING

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Pennsville Township? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/17/2025

Dated

/s/ MICHAEL JAMES NAPUDA

Signed

APPENDIX D

2017 INCLUSIONARY ZONING ORDINANCES

ORDINANCE A-16-2017

Title: AN ORDINANCE OF THE TOWNSHIP OF PENNSVILLE, COUNTY OF SALEM AND STATE OF NEW JERSEY AMENDING CHAPTER 5 ENTITLED, ZONING, OF THE 2014 REVISED LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF PENNSVILLE TO ADDRESS THE AFFORDABLE HOUSING REQUIREMENTS OF THE NJ SUPERIOR COURT

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") has promulgated rules, set forth at N.J.A.C. 5:91 and 5:93, concerning the substantive and procedural requirements for obtaining Third Round substantive certification of the Township of Pennsville's ("Township") Housing Element and Fair Share Plan; and

WHEREAS, on March 10, 2015, the Supreme Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, on July 7, 2015, the Township submitted a Declaratory Judgment Action to the New Jersey Superior Court; and

WHEREAS, on January 27, 2017, the Honorable Anne McDonnell, P.J.Ch., issued a Court Order approving a Settlement Agreement between the Township and Fair Share Housing Center ("FSHC") that established the Township's fair share obligation and granted a durational adjustment of the Township's Third Round obligation and preliminarily approved the Township's compliance mechanisms; and

WHEREAS, on July 10, 2017, the Township's Planning Board adopted a revised Third Round Housing Element and Fair Share Plan and the Township Committee endorsed the adopted Plan; and

WHEREAS, as part of its review of the Township's petition for a Judgment of Compliance and Repose, the Superior Court requires that the Township's zoning ordinances be updated to implement the affordable housing mechanisms included in the Township's adopted Third Round Housing Element and Fair Share Plan.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Pennsville, County of Salem and State of New Jersey, that the Land Development Ordinance of the Township of Pennsville is hereby amended as follows:

Section 1. Ordinance A-18-2006, entitled "An Ordinance Amending Township of Pennsville Ordinance A-22-2005. Entitled 'The Pennsville Township Land Development Ordinance' Which Amendment Will Amend Chapter 5 Entitled 'Inclusionary Housing District,'" is hereby repealed.

Section 2. Chapter 5 of the Land Development Ordinance, Section 5.8, Subsection E.4, Residential Lot Area, Dimension, Configuration, Coverage, Setback, and Height Requirements – Inclusionary District shall be repealed in its entirety.

Section 3. Chapter 2 of the Land Development Ordinance, Section 2.1 shall be amended to include the following definitions:

Dwelling, Townhouse means a single-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit or one or more vertical common fire-resistant walls.

Dwelling, Multifamily means an apartment unit within an apartment building as defined in this Chapter.

Section 4. Chapter 5 of the Land Development Ordinance shall be amended to add Section 5.21, entitled Inclusionary Zoning Districts. The zoning district shall read as follows:

NEW SECTION 5.21 – INCLUSIONARY ZONING DISTRICTS

- A. **General.** Inclusionary zoning districts are residential and mixed-use residential and commercial districts that facilitate the development of townhouse and multifamily housing developments at appropriate permitted densities that include an affordable housing set-aside. These districts are classified as TH-Townhouse Inclusionary Zoning District, MF-1 Multifamily Inclusionary Zoning District, MF-2 Multifamily Inclusionary Zoning District, and MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District. With the exception of the MF-1 and MF-2 zones, each district is subject to different use regulations.
- B. **Permitted Principal Uses and Structures.** A lot and the principal structure existing or to be erected upon it may be used or occupied for only one of the following purposes in each of the inclusionary zoning districts and no other use or purpose shall be permitted:

1. **TH-Townhouse Inclusionary Zoning District**
 - a. Townhouse dwellings.
 - b. Municipal use.

2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts

- a. Multifamily dwellings.
- b. Municipal use.

3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Permitted commercial uses (required minimum 60% of lot area, maximum 70% of lot area) shall include:
 - 1) Retail stores.
 - 2) Personal service shop; tailor, barber, beauty salon, dressmaker, shoe repair, or similar services.
 - 3) Professional business office, agency or studio.
 - 4) Tavern, restaurant, or catering establishment.
 - 5) Theater.
 - 6) Bank or other financial institution.
 - 7) Copy or business service center.
 - 8) Service, repair or supply shop, such as an electrician, plumber, carpenter, upholsterer, or similar trade.
 - 9) Nursery.
 - 10) Floral shop.
 - 11) Lodge, office or headquarters for a fraternal or social club, or religious, political, charitable or non-profit organization, church or other house of worship.
 - 12) Combinations of -3.a.1 through -3.a.10 uses in single or multiple buildings.
- b. Required residential uses (minimum 30% of lot area, maximum 40% of lot area) shall include:
 - 1) Townhouse dwellings.
- c. Municipal purpose.

C. Conditional Uses

1. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District. The following commercial uses shall be permitted in this district only upon a showing that such use in a specified location shall comply with the conditions and standards for the location or operation of such use as set forth below, and upon the issuance of an authorization thereof by the Planning Board:

- a. Dry cleaning or laundry pick-up agency, subject to the following conditions:
 - 1) Consumer drop off and pick-up only; no dry cleaning or dry cleaning facilities are permitted at the premises.
- b. Hotel or Motel, subject to the following conditions: a. Off-street parking:
 - 1) A minimum of one (1) off-street parking space is required for each room to be rented, one (1) space for each employee, and ten (10) spaces for short-term parking and deliveries.
- c. Confectionery or bakery:
 - 1) Must produce goods for on-site retail sale only.
- d. Personal wireless telecommunications facilities and personal wireless telecommunications equipment facilities as defined in this Ordinance, subject to the provisions of Section 5.15.

D. Permitted Accessory Uses and Structures. The following accessory uses may be conducted and the following accessory structures may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

1. TH-Townhouse Inclusionary Zoning District

- a. Off-street parking, including private automobile garages, car sheds, and parking lots for residents' use.
- b. Decks, balconies and open porches.
- c. Parks and conservation areas; open space.
- d. Gazebos, mail kiosks, ornamental gatehouses and other street furniture.
- e. Private sheds.

- f. Satellite antenna less than one meter in diameter.
- g. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts

- a. Off-street parking, including private automobile garages, car sheds, and parking lots for residents' use.
- b. Decks, balconies and open porches.
- c. Parks and conservation areas; open space.
- d. Gazebos, mail kiosks, ornamental gatehouses and other street furniture.
- e. Indoor and outdoor recreational uses for residents and their guests.
- f. Community building for the use of residents.
- g. Management office.
- h. Sheds for tools and equipment for the maintenance of the grounds.
- i. Satellite antenna less than one meter in diameter
- j. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Any accessory use or structure permitted in the TH-Townhouse inclusionary zoning district for residential uses.
- b. Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

E. Conditionally Permitted Accessory Uses and Structures. The following accessory uses may be conducted and the following accessory structures may be erected or placed on the same lot as one of the foregoing permitted or conditional principal uses or structures.

1. TH-Townhouse Inclusionary Zoning District

- a. A "home occupation" meeting the definitional requirements established in Chapter 2 of the Land Development Ordinance.
- b. Fences and walls, subject to applicable site plan requirements and the conditions set forth in Section 5.5.
- c. Signs, subject to the residential district requirements and the conditions set forth in Section 5.4.
- d. A single flagpole (a) having a height that is no greater than forty (40) feet or no greater than the flagpole's distance from the nearest lot line (whichever is less), (b) having no more than one yard-arm, and (c) upon which is flown no more than three flags, with each flag having an area of no more than twelve (12) square feet (zoning permit required for flagpole construction but not for flags).
- e. Solar panels or cells, only if mounted on the roofs of permitted principal or accessory buildings.

2. MF-1 and MF-2 Multifamily Inclusionary Zoning Districts

- a. Any accessory use or structure conditionally permitted in the TH-Townhouse inclusionary zoning district for residential uses.

3. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Any accessory use or structure conditionally permitted in the TH-Townhouse inclusionary zoning district for residential uses.
- b. Signs, subject to the C-Commercial District requirements and the conditions set forth in Section 5.4.
- c. Parking and parking facilities subject to applicable zoning and site plan requirements.

F. Required Use. In all inclusionary zoning districts, at least twenty percent (20%) of the total number of for-sale dwellings or fifteen percent (15%) of the total number of rental dwellings shall be affordable to low- and moderate-income households. Affordable housing units shall be developed in accordance with the affordable housing regulations of the Township of Pennsville (Chapter 11 of the Land Development Ordinance).

G. General Tract Requirements.

1. TH-Townhouse Inclusionary Zoning District (Non-Fee Simple Lots)

- a. Minimum gross acreage of tract: 10 acres
- b. Maximum gross density: 8 units per acre
- c. Building setback from tract perimeter: 60 feet from tract boundary that abuts public right-of-way, 100 feet from tract boundary that abuts single-family residential lots. Entrance building or kiosk may be within 15 feet of the tract boundary.
- d. Parking area or internal driveway or street setback (excluding entrances and exits) from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Buildings on Tract: Not limited
- g. Number of Accessory Buildings on Tract: As approved by the Planning Board
- h. Total Building Coverage: 25% maximum
- i. Impervious Materials Coverage: 65% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles: (see Section 5.21.E)

2. MF-1 Multifamily Inclusionary Zoning District

- a. Minimum gross acreage of tract: 5 acres
- b. Maximum gross density: 14 units per acre
- c. Building setback from tract perimeter: 60 feet from any tract boundary
- d. Parking area or internal driveway or street setback (excluding entrances and exits) from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Buildings on Tract: Not limited
- g. Number of Accessory Buildings on Tract: As approved by the Planning Board
- h. Total Building Coverage: 35% maximum
- i. Impervious Materials Coverage: 75% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles: (see Section 5.21.E)

3. MF-2 Multifamily Inclusionary Zoning District

- a. Minimum gross acreage of tract: 16 acres
- b. Maximum gross density: 10 units per acre
- c. Building setback from tract perimeter: 60 feet from any tract boundary
- d. Parking area or internal driveway or street setback (excluding entrances and exits) from tract perimeter: 25 feet
- e. Landscape Buffer from Tract Perimeter: 25 feet minimum
- f. Number of Principal Buildings on Tract: Not limited
- g. Number of Accessory Buildings on Tract: As approved by the Planning Board
- h. Total Building Coverage: 35% maximum
- i. Impervious Materials Coverage: 75% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Signs and Flag Poles: (see Section 5.21.E)

4. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

- a. Commercial uses shall be permitted on the portion of the tract that fronts on South Broadway/Route 49. The commercial use component of this district shall comprise a minimum of 60% and a maximum of 70% of the developable lot area and shall be physically separate from the residential use component.
- b. Residential uses are required at the rear of the tract (a minimum of 30% and a maximum of 40% of the developable lot area) and behind the commercial use component that fronts on South Broadway/Route 49. The residential use component of this lot shall only be developed with residential uses.
- c. The residential component of this district is subject to the general tract requirements of the TH-Townhouse Inclusionary Zoning District.

H. Lot Area, Dimension, Configuration, Coverage, Setback, and Height Requirements.

I. TH-Townhouse Inclusionary Zoning District (Non-Fee Simple Lots)

- a. Lot Area: Entire tract
- b. Minimum distance between principal buildings:
 - 1) From building front to building front: 60 feet
 - 2) From building front to building side: 50 feet
 - 3) From building front to building rear: 50 feet
 - 4) From building side to building rear: 35 feet
 - 5) From building rear to building rear: 50 feet
 - 6) From building side to building side: 20 feet
 - 7) From any common parking area to a building: 15 feet
 - 8) From accessory building: 15 feet
- c. Height (Principal Structures): 45 feet maximum
- d. Height (Accessory Structures): 15 feet maximum
- e. Stories (Principal Building): 3 stories maximum
- f. Stories (Accessory buildings): 1½ stories maximum
- g. Maximum number of dwelling units in one building: 8 units

2. TH-Townhouse Inclusionary Zoning District (Fee Simple Lots)

- a. Lot Area: 2,000 s.f. minimum
- b. Lot Frontage: 20 feet minimum (per unit)
- c. Lot Width: 20 feet minimum (per unit)
- d. Lot Depth: 85 feet minimum (per unit)
- e. Front Yard (Principal Structure): 15 feet minimum
- f. Front Yard (Accessory Structures): 15 feet minimum or no less than the greatest actual front yard setback of the principal structure from each street, whichever is greater
- g. Side Yard (Principal Structure): 0 feet if adjoining another unit, 15 feet minimum if an outside wall
- h. Side Yard (Accessory Structures): 5 feet minimum
- i. Rear Yard (Principal Structure): 20 feet minimum
- j. Rear Yard (Accessory Structure): 5 feet minimum
- k. Landscape Buffer: 25 feet minimum
- l. Height (Principal Structure): 45 feet maximum
- m. Height (Accessory Structures): 15 feet maximum
- n. Number of Principal Buildings on Lot: 1 building maximum
- o. Number of Accessory Buildings on Lot: 1 building maximum
- p. Stories (Principal Building): 3 stories maximum
- q. Stories (Accessory buildings): 1½ stories maximum
- r. Building Coverage (Principal Building): 65% maximum
- s. Building Coverage (Accessory Building): 10% maximum
- t. Total Building Coverage: 75% maximum
- u. Impervious Materials Coverage (inc. bldgs): 80% maximum

Additional Standards

- a. Off-Street Parking: (see RSIS Parking Standards at N.J.A.C. 5:21-4.14)
- b. Grading requirements: (see Section 5.17)
- c. Lot must abut improved street (see Section 5.18)
- d. Signs and Flag Poles (see Section 5.21.E)

3. MF-1 Multifamily Inclusionary Zoning District

- a. Lot Area: Entire tract
- b. Minimum distance between buildings:
 - 1) From building front to building front: 60 feet

- 2) From building front to building side: 50 feet
- 3) From building front to building rear: 50 feet
- 4) From building side to building rear: 35 feet
- 5) From building rear to building rear: 50 feet
- 6) From building side to building side: 20 feet
- 7) From any common parking area to a building: 15 feet
- 8) From accessory building: 15 feet
- c. Height (Principal Structures): 55 feet maximum
- d. Height (Accessory Structures): 25 feet maximum
- e. Stories (Principal Building): 4 stories maximum
- f. Stories (Accessory buildings): 2½ stories maximum (no basement)
- g. Maximum number of dwelling units in one building: 16 units

4. MF-2 Multifamily Inclusionary Zoning District

- a. Lot Area: Entire tract
- b. Minimum distance between buildings:
 - 1) From building front to building front: 60 feet
 - 2) From building front to building side: 50 feet
 - 3) From building front to building rear: 50 feet
 - 4) From building side to building rear: 35 feet
 - 5) From building rear to building rear: 50 feet
 - 6) From building side to building side: 20 feet
 - 7) From any common parking area to a building: 15 feet
 - 8) From accessory building: 15 feet
- c. Height (Principal Structures): 55 feet maximum
- d. Height (Accessory Structures): 25 feet maximum
- e. Stories (Principal Building): 4 stories maximum
- f. Stories (Accessory buildings): 2½ stories maximum (no basement)
- g. Maximum number of dwelling units in one building: 16 units

5. MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

Residential Use

- a. The residential component of this district is subject to the lot area, dimension, configuration, coverage, setback, and height requirements of the TH-Townhouse Inclusionary Zoning District.

Commercial Use

- a. The commercial component of this district is subject to the lot area, dimension, configuration, coverage, setback, and height requirements of the C-Commercial Zoning District.

- I. Awnings. Awnings are permitted on commercial building facades subject to the Commercial District requirements and the conditions set forth in Section 5.9.H.

Section 5. Chapter 5 of the Land Development Ordinance, Section 5.2 Zoning Districts shall be amended to add the following:

TH-Townhouse Inclusionary Zoning District
 MF-1 Multifamily Inclusionary Zoning District
 MF-2 Multifamily Inclusionary Zoning District
 MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

Section 6. The zoning map of the Township of Pennsville shall be revised to apply the inclusionary zoning districts to the following blocks and lots on the tax assessment lots:

TH-Townhouse Inclusionary Zoning District

<u>Block</u>	<u>Lots</u>
4301	40
4301	41
4401	16
4401	17
4504	7
4504	21

MF-1 Multifamily Inclusionary Zoning District

<u>Block</u>	<u>Lot</u>
501	6

MF-2 Multifamily Inclusionary Zoning District

Block Lot
1101 31

MU-2 Mixed-Use Commercial and Residential Inclusionary Zoning District

Block Lot
4201 17

Section 7. Continuation. In all other respects, the Land Development Ordinance of the Township of Pennsville shall remain unchanged.

Section 8. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Township of Pennsville, then the restriction which imposes the greater limitation shall be enforced.

Section 10. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 11. Enactment. This Ordinance shall take effect upon the filing thereof with the Salem County Planning Board after final passage, adoption, and publication by the Township Committee of the Township of Pennsville in the manner prescribed by law.

ADOPTED: September 7, 2017

Approved by the Township Committee
Township of Pennsville – July 20, 2017

ATTEST:


Angela N. Foote, Clerk


Robert E. McDade, Mayor

First reading – July 20, 2017

Roll call vote:

	Yes	No	Abstaining	Absent
William Biebel	X	—	—	—
Marc Chastain	X	—	—	—
Jeffrey Cook	X	—	—	—
Robert McDade	X	—	—	—
Richie Raine	X	—	—	—

Adoption – September 7, 2017

Roll call vote:

	Yes	No	Abstaining	Absent
William Biebel	X	—	—	—
Marc Chastain	X	—	—	—
Jeffrey Cook	X	—	—	—
Robert McDade	X	—	—	—
Richie Raine	X	—	—	—

APPENDIX E
DRAFT AMENDED
INCLUSIONARY ZONING
ORDINANCE

TO BE PROVIDED AS A
SUPPLEMENTAL SUBMISSION

APPENDIX F

REHABILITATION DOCUMENTATION

**TOWNSHIP OF PENNSVILLE
COUNTY OF SALEM**

RESOLUTION _____

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW
JERSEY DEPARTMENT OF COMMUNITY AFFAIRS FOR MUNICIPAL HOUSING RECONSTRUCTION**

SCHEDULE I: RESOLUTION

WHEREAS, the Township of Pennsville desires to apply for and obtain a grant from the New Jersey Department of Community Affairs, Small Cities Housing Rehabilitation Fund for an amount not to exceed \$_____, for municipal housing reconstruction.

BE IT THEREFORE, RESOLVED,

- 1) that the Township of Pennsville does hereby authorize the application for such a grant; and,
- 2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the fully executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between the Township of Pennsville and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED, that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

(signature)

Daniel J. Neu

Mayor

(signature)

Angela Foote

City Clerk

ATTEST:

Angela Foote, CLERK

DATE: May 28, 2025



**Operating Manual
for the Administration
of Owner Occupied and Rental Rehabilitation Units
in Accordance with the
Uniform Housing Affordability Controls
and the
New Jersey Fair Housing Act**

September 2013

**Township of Pennsville
Richard Barnhart Mayor
90 North Broadway
Pennsville, New Jersey 08070
856-678-3089**

Prepared by:



TOWNSHIP OF PENNSVILLE
Operating Manual for the Administration of
Owner Occupied and Rental Rehabilitation Units

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APPENDIX G

PENNSVILLE TOWERS CREDITING DOCUMENTATION



CERTIFICATE

CERT. NO.	000435
DATE ISSUED	12-4-86
Block	319
Lot	1E
Subdivision	

IDENTIFICATION

Owner Carpenters Development Agent Franland Construction Co.
Address Cherry Hill, NJ Address 190 S. Main Rd.
Vineland, NJ 08360
Tel. () 665-5444 Tel. () 696-1400
Work Site Address Eaton Rd. & Wash. Dr. Lic. No. 00080
Federal Emp. No. 22-2050512

PAYMENTS

Fees Remitted \$ 1,025.00
☒ Check No. 3412
☐ Cash
☐ Other
Collected By: DIH
Date: 11-12-86

CERTIFICATE OF OCCUPANCY/APPROVAL

A. ☒ CERTIFICATE OF OCCUPANCY

☐ CERTIFICATE OF APPROVAL

This serves notice that said building, structure, or equipment has been constructed or installed in accordance with the New Jersey Uniform Construction Code, and is approved for use and/or occupancy.

B. ☐ CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

C. ☐ TEMPORARY CERTIFICATE OF OCCUPANCY

If this is a Temporary Certificate of Occupancy the following conditions must be met no later than _____, 19____ or the owner will be subject to a fine or order to vacate:

D. DESCRIPTION OF WORK:

100 Unit Senior Citizen Building

USE GROUP _____ FIRE GRADING _____

MAXIMUM LIVE LOAD _____ MAXIMUM OCCUPANCY LOAD _____

SPECIFIC USE Senior Citizen Housing

FINAL COST OF CONSTRUCTION: \$ 5,250,000.00


CONSTRUCTION OFFICIAL



Township of Pennsville
90 North Broadway
Pennsville, NJ 08070
856-678-3089

Block: 3101 Lot: 4 Qual: _____
Work Site Location: 40 EATON RD
PENNSVILLE
Owner in Fee: PENNSVILLE TOWERS
Address: 40 EATON RD
PENNSVILLE NJ 08070
Telephone: 856 678-3300
Agent/Contractor: PENNSVILLE TOWERS
Address: 40 EATON RD
PENNSVILLE NJ 08070
Telephone: 856 678-3300
Lic. No./Bldrs. Reg.No.: _____ Federal Emp. No.: _____
Social Security No.: _____

☐ CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

A. Dariano
Anthony A. Dariano, CFM Construction Official

U.C.C. 260 (rev. 5/03)

1 - APPLICANT 2 - OFFICE 3 - TAX ASSESSOR

CERTIFICATE IDENTIFICATION

Date Issued: 10/25/2012
Control #: 20434
CCO #: 20120012

Home Warranty No: _____
Type of Warranty Plan: ☐ State ☐ Private
Use Group: R-2
Maximum Live Load: _____
Construction Classification: _____
Maximum Occupancy Load: _____
Certificate Exp Date: _____
Description of Work/Use: _____
CHANGE IN TENANT AND/OR OCCUPANCY
OO INSPECTION FOR PENNSVILLE TOWERS

Update Desc. of Wk/Use: _____

☐ CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐ Total removal of lead-based paint hazards in scope of work
☐ Partial or limited time period(____ years); see file

☒ CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

Fees: \$150.00

Paid ☒ Check No.: 1108

Collected by: BJQ

Pennsville Towers
Section 8 Project Number: NJ39T791013
FHA Project Number: 035-EH016
Effective Date 08/01/2014
Expiration Date: 07/31/2031

EXHIBIT A

**IDENTIFICATION OF UNITS ("CONTRACT UNITS")
BY SIZE AND APPLICABLE CONTRACT RENTS**

<u>Number of Contract Units</u>	<u>Number of Bedrooms</u>	<u>Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
99	1	\$1,096.00	\$ 57.00	\$1,153.00

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Basic Renewal Contract

APPENDIX H

KENT AVENUE CREDITING DOCUMENTATION

Township of Pennsville
90 North Broadway
Pennsville NJ 08070
856-678-3089

CERTIFICATE

IDENTIFICATION

Date Issued: 01/30/2008
Control #: 16113
Permit #: 20060597

Home Warranty No: _____
Type of Warranty Plan: ☐ State ☐ Private
Use Group: R-2
Maximum Live Load: _____
Construction Classification: _____
Maximum Occupancy Load: _____
Certificate Exp Date: _____
Description of Work/Use: FIVE STORY 101 UNITS, SENIOR APT. COMPLEX

Block: 501 Lot: 19 Qualification Code: _____
Work Site Location: 11 KENT AVE
PENNSVILLE
Owner in Fee: KENT STREET SENIOR CITIZEN HOUSING
Address: 407 PENNINGTON-TITUSVILLE
TITUSVILLE NJ 08560
Telephone: 609 730-8138
Agent/Contractor: TRI COUNTY REAL ESTATE MAINTENANCE
Address: 189 DELAWARE AVE
CARNEY'S POINT NJ 08069
Telephone: 856 299-6531
Lic. No./ Bldrs. Reg. No.: _____ Federal Emp. No.: _____
Social Security No.: _____

Update Desc. of Wk/Use:
PLUMBING FOR SENIOR APTS., ALARM DEVICES, TEMP POLE, DUCT WORK HVAC,
FIRE SUPPRESSION SYSTEMS, AND ALARM DEVICES, ELEVATOR FOR SENIOR
BLDG., FIXTURES, RECEPTACLES, SWITCHES AND TEMP POLE

☒ X] CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐] CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐] TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐] CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

☐] Total removal of lead-based paint hazards in scope of work
☐] Partial or limited time period(____ years); see file

☐] CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐] CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

A. Dariano

Anthony A. Dariano, CFM Construction Official

U.C.C 260 (rev. 5/03)

1 - APPLICANT 2 - OFFICE 3 - TAX ASSESSOR

Fees: \$79.00

Paid ☒ X Check No.: 1002

Collected by: BJQ

HMFA Board Approved Revision 11/18/04

LIHTC # 736

Prepared By:

Signature
 Frank Sciarrotta
 Print Name

**DEED OF EASEMENT AND RESTRICTIVE COVENANT
 FOR EXTENDED LOW-INCOME OCCUPANCY**

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of December 11, 2007 shall run with the land and is granted by Kent Street Senior Citizen Housing, L.P. and its successors and assigns (the "Project Owner") whose principal address is P.O. Box 1, Titusville, NJ 08559, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the Determination Letter or the IRS Form(s) 8609 for the building(s) described below, the Agency has determined the eligibility for and issued Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an estimated annual amount of \$436,883 to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

- (1) The one building, which consist of a total of 101 residential rental units, of which 101 are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as Kent Street Housing (the "Project"). The Project is located at 11 Kent Street, Pennsville, NJ, Municipal Tax Map Block No. 501, Lot Nos. 19 & 20 in the County of Salem, New Jersey, and title to which has been recorded in the County Clerk or Register's Office, being more fully described as set forth in Attachment "A" hereto.
- (2) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is 100 percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code.

15414

**RECORD AND RETURN TO
 NEW JERSEY TITLE AGENCY
 15 South Main Street
 Woodstown, New Jersey 08098**

- (3) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date which is fifteen (15) years after the close of the initial fifteen (15) year compliance period, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.
- (4) The extended use period shall terminate, subject to the provisions regarding low-income tenancy and gross rent restrictions, on the date the buildings are acquired by foreclosure (or an instrument in lieu of foreclosure), or on the last day of the one year period beginning on the date after the fourteenth (14th) year of the initial compliance period that the Project Owner submits a written request to the Agency to present a qualified contract (as defined at Section 42(h)(6)(F) of the Code) for the acquisition of the buildings, if, and only if, the Agency is unable to present within that year's time, a qualified contract from a purchaser who will continue to operate such buildings as a qualified low-income project.
- (5) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in 2008.
- (6) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, which was selected by the Project Owner in its Application requires that 40 percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is 60 percent or less of area median gross income (AMGI) ("income eligible members of the public"). The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.
- (7) ☐ If this box is checked, the Project is a Special Needs Project as defined in the _____ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must BOTH restrict 25% of the LIHTC units in the Project for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs a minimum of three appropriate and accessible social services throughout the compliance period. One of the social services must be a social service coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs.
- (8) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.

- (9) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.
- (10) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.
- (11) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.
- (12) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.
- (13) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.
- (14) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.
- (15) These covenants may, from time to time, be amended only with the written consent of the Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.
- (16) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.
- (17) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an

authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.

- (18) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.
- (19) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.
- (20) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.
- (21) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
the undersigned Notary Public or
Attorney on the date appearing below:

WITNESS

PROJECT OWNER: Kent Street Senior
Citizen Housing, L.P.

(IF INDIVIDUAL, LLC, OR PARTNERSHIP)

Man Ahlt

By:

[Signature]
Authorized Representative

Ron Bakenstein, President,
(Print Name, Title, Organization)
KENT STREET, INC., GENERAL PARTNER

ATTEST (IF A CORPORATION)

PROJECT OWNER:

Secretary

By:

President (Corporation)

(Print Name)

DOC # 000028058
FILED, RECORDED, INDEXED
12/17/2007 10:53A
BK: 01298 PG: 00297
Tot. Fee: 26 Pages: 7
SALEM COUNTY CLERK
GILDA T. GILL

STATE OF NEW JERSEY)
) SS:
 COUNTY OF)

ACKNOWLEDGMENT
 (LLC or PARTNERSHIP FORM)

I CERTIFY, that on Dec 11, 2007 Ron Rukenstein personally came before me
 _____ and this person acknowledged under oath, to my satisfaction, that
 (a) this person is the attesting witness to the signing of this document by
 _____, who is General Partner of Kent St. Sq. Housing L.P., the
 Managing Member / General Partner of the LLC / Partnership named herein, and duly authorized to
 execute this document; (b) this document was signed and delivered by the Managing Member / General
 Partner as its voluntary act on behalf of the LLC / Partnership; and (c) this person signed this proof to
 attest to the truth of these facts.

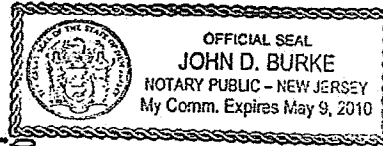
WITNESS

SWORN TO AND SUBSCRIBED

before me, this 11 day of Dec, 2007

John D. Burke
 Notary Public or Attorney at Law N.J.

My Commission Expires
May 9, 2010



ACKNOWLEDGMENT

(CORPORATE FORM)

BE IT REMEMBERED, that on _____, 2007 before me, the subscriber, personally appeared
 _____ who, being by me duly sworn on the oath, deposes and makes
 proof to my satisfaction, that he/she is the Secretary of
 _____ the Corporation named in the within Instrument; that _____ is the
 President of said Corporation; that the execution, as well as the making of this Instrument, has been duly
 authorized by a proper resolution of the Board of Directors of the said Corporation; and said Instrument
 was signed and delivered by said President as and for the voluntary act and deed of said Corporation, in
 the presence of deponent, who thereupon subscribed his/her name thereto as attesting witness.

Notary Public or Attorney

Attachment "A"

PROPERTY DESCRIPTION

The land referred to in this commitment is described as follows:

ALL OF THE FOLLOWING TRACT OR PARCEL of land and premises situate in the Township of Pennsville, County of Salem and State of New Jersey, bounded and described as follows:

BEGINNING at a corner of reserved land of William W. Schaedler in the southwesterly edge of Kent Avenue, said corner being South fifty six degrees, forty one minutes east, three hundred, fifty one and ninety three hundredths feet from an iron pipe set at the intersection of the southeasterly edge of the Salem-Pennsgrove Road (when widened ten feet on the southeasterly side thereof, to make a total width of fifty nine and five tenths feet) with the southwesterly edge of Kent Avenue, aforesaid; thence

(1) along said Schaedler's reserved land, south thirty three degrees, nineteen minutes west, four hundred, sixty two and fifty four hundredths feet to a corner in line of land of Joseph Pedrick Estate; thence

(2) along said Pedrick's land, South fifty six degrees, forty one minutes east, four hundred feet to a corner of other reserved land of said Schaedler; thence

(3) along said Schaedler's reserved land, north thirty three degrees, nineteen minutes east, four hundred, sixty two and fifty four hundredths feet to a corner in the southwesterly edge of Kent Avenue, aforesaid; thence

(4) along the southwesterly edge thereof, north fifty six degrees, forty one minutes west, four hundred feet to the place of beginning.

EXCEPTING THEREOUT AND THEREFROM the following tract or parcel of land:

BEGINNING at an iron pipe found in the southwesterly edge of Kent Avenue (40.00 feet wide) at a corner of land of Robert Lee Flickinger, said iron pipe being South 56 degrees 41 minutes East, 631.93 feet from the intersection of the southwesterly edge of Kent Avenue with the southeasterly edge of North Broadway (as widened 10.00 feet on the southeasterly side) and from beginning point runs thence

(1) along the southwesterly edge of Kent Avenue, South 56 degrees 41 minutes East, 120.00 feet to an iron pipe found at a corner of land now or formerly William W. Schaedler; thence

(2) along said Schaedler, South 33 degrees 19 minutes West, 125.00 feet to an iron pipe set at a corner of reserved land of Robert Lee Flickinger; thence

(3) along said reserved land, North 56 degrees 41 minutes West, 120.00 feet to an iron pipe set at a corner of reserved land of said Flickinger; thence

(4) still along the same and along other land of said Flickinger, North 33 degrees 19 minutes East, 125.00 feet to the place of beginning.

In compliance with Chapter 157, Laws of 1977, the within premises are Block 501, Lots 19 & 20 on the Tax Map of the Township of Pennsville.

APPENDIX I

PENNSVILLE TOWERS EXPANSION CONCEPT PLAN

APPENDIX J

ENDANGERED SPECIES AND NONGAME SPECIES PROGRAM DOCUMENTATION



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF FISH AND WILDLIFE
ENDANGERED AND NONGAME SPECIES PROGRAM

Mail Code 501-03

P.O. Box 420

Trenton, NJ 08625-0402

TEL (609) 292-9400

FAX (609) 292-8207



CHRIS CHRISTIE

Governor

KIM GUADAGNO

Lt. Governor

BOB MARTIN

Commissioner

Ms. Emily Goldman
Clarke Caton Hintz
100 Barracks Street
Trenton, NJ 08608

March 28, 2016

RE: Pennsville Twp. COAH Site Reviews
Threatened and Endangered Species & Habitats Assessment
Block 4401; Lot 16, portion of Lot 17,
Block 4504; Lot 7, Lot 21
Pennsville Twp., Salem Cty.

Dear Ms. Goldman:

Based upon the Endangered and Nongame Species Program's review of the four (4) sites referenced above, which you identified via e-mail correspondence dated February 29, 2016, I can verify the following information relevant to endangered or threatened species issues which would or would not be relevant to their development. As we previously discussed, this information is provided as a courtesy and is based upon the best information presently available to the Program. This guidance does not supersede application of any/all applicable law and/or regulation as might be necessary from the NJ DEP or other local, State or federal agencies, should a development be pursued on these sites in the future.

Bald eagle:

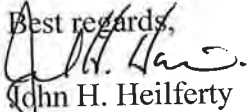
There are presently two (2) active bald eagle nests located within (approx.) 0.5 mile of the subject sites. However, the application of standard 1,000' (max) nest buffers on these locations does not impact any of the 4 sites submitted. So based upon present conditions, bald eagle nests will not directly affect development of these properties.

The proximity of the existing active nests *does* result in the identification of area wetlands and waters adjacent to the subject properties as "bald eagle foraging habitat." Additionally, there are recent records of bald eagles wintering in the vicinity of the 4 sites, with a "winter roost area" designated nearby in association with habitats adjacent to the Salem River. These two conditions are reflected in the current "Landscape Project" mapping (Version 3.1) and could very well factor into findings made under other applicable State regulations, particularly those administered by the Department's Division of Land Use Regulation. For example, you noted a

150' wetlands buffer has already been determined to be required. This classification was likely based upon (and would continue to be supported by) area bald eagle foraging habitats. You should also note that in certain instances sewer service areas are determined based upon the occurrences of threatened or endangered species habitats, as mapped by the Landscape Project. However, assuming any future development projects proposed on these sites were designed to comply with the requirements of all standard land use regulations or sewer service area mapping which apply, there should be no additional or unanticipated implications based upon the mere presence of the area bald eagle nests.

Thank you for your interest in protecting State listed wildlife and their habitats. If you have additional questions about threatened or endangered species or their habitats, please contact me at the address cited below. Additionally, you may obtain information about the applicable land use regulations which may apply to any forthcoming developments planned for the properties by contacting the DEP's Division of Land Use Regulation at (609) 633-6748.

Best regards,



John H. Heilferty

Division of Fish and Wildlife

Endangered and Nongame Species Program

(609) 292-9400 (main line)

C: Larry Torok, DLUR



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF FISH AND WILDLIFE
ENDANGERED AND NONGAME SPECIES PROGRAM

Mail Code 501-03

P.O. Box 420

Trenton, NJ 08625-0402

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Ms. Jessica Bodnar, AICP
Clarke Caton Hintz
100 Barracks Street
Trenton, NJ 08608

March 6, 2017

RE: Pennsville Twp. COAH Site Reviews
Threatened and Endangered Species & Habitats Assessments
"Site 7": Block 4301; Lot 40
"Site 8": Block 4301; Lot 41
"Site 9": Block 4201; Lot 17
Pennsville Twp., Salem Cty.

Dear Ms. Bodnar:

Based upon the Endangered and Nongame Species Program's review of the three (3) sites referenced above, which you identified via e-mail correspondence dated February 13, 2017, I can verify the following information relevant to potential bald eagle nest issues which could be relevant to site development. Please note that this information is provided as a courtesy and is based upon the best information presently available to the Program. This guidance does not supersede application of any/all applicable laws and/or regulations as might be necessary from the NJ DEP or other local, State or federal agencies, should a development be pursued on these sites in the future.

Bald eagle:

There is presently one (1) known active bald eagle nest located within close enough proximity to the subject sites to have potential impact on site development. Specifically, there is a bald eagle nest located *on* or immediately adjacent to "Site 8," Block 4301, Lot 31. Application of a required nest buffer (1,000' max) could significantly affect potential development of this site. This nest buffer would also likely affect development of the adjacent "Site 7."


"Site 9" is not directly impacted by potential bald eagle nests or their required buffers.

The proximity of the existing active nest would also likely result in the identification of area wetlands and waters adjacent to "Site 7," "Site 8" and *potentially* "Site 9" as "bald eagle foraging habitat." Potential for this condition is depicted by "New Jersey's Landscape Project"

mapping (currently Version 3.1, *though an update is imminent*) and could very well factor into findings made under other applicable State regulations, particularly those administered by the Department's Division of Land Use Regulation. You should also note that in certain instances sewer service areas are determined based upon the occurrences of threatened or endangered species habitats, as mapped by the Landscape Project.

Thank you for your interest in protecting State listed wildlife and their habitats. If you have additional questions about the potential impact bald eagle habitats may have on site development, please contact the Program's lead bald eagle biologist Kathy Clark at Kathy.Clark@dep.nj.gov or (609) 628-2103. Additionally, you may obtain information about the applicable land use regulations which may apply to any forthcoming developments planned for the properties by contacting the DEP's Division of Land Use Regulation at (609) 633-6748.

Best regards,



John H. Heilferty
Division of Fish and Wildlife
Endangered and Nongame Species Program
(609) 292-9400 (main line)

C: Kathy Clark, ENSP
Larry Torok, DLUR

APPENDIX K

FAIR SHARE ORDINANCE

CHAPTER 11 – AFFORDABLE HOUSING

Section 11.1 – AFFORDABLE HOUSING OBLIGATION

- A. This Section of the Township Code sets forth regulations regarding the low- and moderate-income housing units in the Township of Pennsville consistent with the provisions of the Council on Affordable Housing ("COAH") known as the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Township's constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households. In addition, this section applies requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill") codified at N.J.S.A. 52:27D-329.1. All low- and moderate-income housing units including Low Income Housing Tax Credit projects shall conform to the income, affordability average and bedroom distribution requirements set forth in the UHAC at N.J.A.C. 5:80-26.3, with the exception that 13% of affordable rental units shall be affordable to households earning no more than 30% of median income instead of the UHAC requirement of 10% of affordable rental units being affordable to households earning no more than 35% of median income.
- B. This Ordinance is intended to assure 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. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Pennsville 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 Plan has also been endorsed by the governing body. The Fair Share Plan describes the ways the Township of Pennsville shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.
- E. *Annual Monitoring Reporting.* On an annual basis beginning with the first anniversary of the entry of the Judgment granting the Township of Pennsville a Judgment of Compliance and Repose, the Township shall report on the status of all affordable housing activity within the municipality, including all activity in connection with the Township's Affordable Housing Trust Fund, through an update of the COAH CTM system and posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center ("FSHC"), using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- F. *Plan Progress Reporting.* Pursuant to N.J.S.A. 52:27D-313, the Township shall, by July 1, 2020, report on the continuing realistic opportunity provided by any inclusionary zoning sites or other affordable housing mechanisms in its Plan that have not been implemented. Such reporting shall be in the form of a posting on the municipal website, with a copy provided to FSHC. The reporting shall consist of a status report as to the Township's implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity or should be replaced. Such posting shall invite any interested party to submit comments to the Township and to FSHC on the issue of whether any unbuilt

inclusionary zoning sites or other affordable housing mechanisms no longer present a realistic opportunity for affordable housing and should be replaced.

- G. *Very-Low Income Unit Reporting.* Pursuant to N.J.S.A. 52:27D-329.1, the Township shall, within 30 days of the third anniversary of the entry of the Judgment granting the Township of Pennsville a Judgment of Compliance and Repose, and every third year thereafter, post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low income housing requirement, including the family very-low income requirement referenced in the settlement agreement with FSHC dated November 10, 2016. Such posting shall invite any interested party to submit comments to the Township and to FSHC on the issue of whether the municipality has complied with its very-low income housing obligation per the settlement agreement between the Township and FSHC.

Section 11.2 - DEFINITIONS

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

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

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

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means 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.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.

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

“Age-restricted unit” 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: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% 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 the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

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

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means 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.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or 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 use or change in the use 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 N.J.S.A. 40:55D-1 et seq.

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township 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.

"Housing Element" means the portion of the Township'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 Township'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 median household 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.

"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 county, as adopted annually by COAH or approved by the NJ 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 median household income.

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

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; 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 adopted/approved Regional Income Limits.

“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.

“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.

Section 11.3 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:

Maximum Percentage of Market-Rate Units <u>Completed</u>	Minimum Percentage of Low- and Moderate- Income <u>Units Completed</u>
25	0
25+1	10
50	50
75	75
90	100

- B. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

- C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C. 5:93-8.10* (c).
- D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- 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.
 - 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 multistory dwelling units attached to at least one (1) other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.
 - 2. All restricted townhouse dwelling units and all restricted multistory dwelling units 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 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, on the first floor; 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 Township 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 Township of Pennsville's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances. Funds shall be provided at the time of issuance of a building permit.
 - (3) The funds deposited under paragraph (2) herein, shall be used by the Township of Pennsville 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.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Township of Pennsville. Said plan and cost estimate shall be submitted at the time of issuance of a building permit.
 - (5) Once the construction official has determined that the design plan to convert the unit entrances from adaptable to accessible meet 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 of Pennsville's affordable housing trust fund in care of the Township's Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - (6) 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 by the Superior Court, utilizing the regional income limits established.
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 rental units shall be affordable to households earning no more than 30% of median income.
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. 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.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in 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; and

- (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- 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 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.
- 8. The initial gross rent including an allowance for utilities for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income 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.
- 9. 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. 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

Section 11.4 – CONDOMINIUM AND HOMEOWNERS ASSOCIATION FEES

For any affordable housing unit that is part of a condominium association and/or homeowners 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.

Section 11.5 – AFFIRMATIVE MARKETING

- A. The Township of Pennsville 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 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 COAH Housing Region 6 and covers 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 6, comprised of Salem, Atlantic, Cape May and Cumberland Counties.
- D. The Administrative Agent designated by the Township of Pennsville shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the Township of Pennsville.
- 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.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- 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 of Pennsville.

Section 11.6 – OCCUPANCY STANDARDS

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. 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.

Section 11.7 – 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.

Section 11.8 – 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 requirements of this Ordinance until the Township of Pennsville elects to release the unit from such requirements; however, prior to such an election, 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, for at least 30 years.
- B. Rehabilitated owner-occupied single-family 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 nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- E. At the time of the first sale of the unit, the 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 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.
- D. 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.
- 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.
- G. All conveyances of restricted ownership units shall be made by deeds and restrictive covenants substantially in the form prescribed herein.
- H. At the time of the first non-exempt sale following a 30-year interval from the date of the issuance of the initial certificate of occupancy, the Township of Pennsville shall have the right of first refusal to purchase a restricted ownership unit at the maximum restricted price, provided that:
 - 1. The Township of Pennsville enters into a contract to purchase the unit within 60 days of notification of intent to sell by the owner of the restricted unit; and
 - 2. The recapture lien remains in full force and effect.

Section 11.9 - 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 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

Section 11.10 - 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. 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 certified monthly income.

Section 11.11 - 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.
- 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).

Section 11.12 - 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 until the Township of Pennsville elects to release the unit from such requirements; however, 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.
- 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 Salem. 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.

Section 11.13 - PRICE 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.

Section 11.14 - 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.

2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- 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. 5:80-26.16, 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 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 (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 11.15 - 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.

Section 11.16 - REOCCUPANCY CERTIFICATES

Upon resale of a restricted unit, a certificate of reoccupancy shall be required in accordance with N.J.A.C. 5:80-26.11.

Section 11.17 - MUNICIPAL HOUSING LIAISON

- A. The Township of Pennsville is ultimately responsible for administering the affordable housing program, including affordability controls and the Affirmative Marketing Plan in accordance with N.J.A.C. 5:93 et seq. and the UHAC pursuant to N.J.A.C. 5:80-26 et seq.

- B. The position of Municipal Housing Liaison for the Township of Pennsville is hereby established. The Township of Pennsville shall by duly adopted resolution appoint the Township of Pennsville Administrator as the Municipal Housing Liaison, subject to the approval by the Superior Court.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Pennsville.
- C. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Pennsville, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - 1. Serving as the municipality'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 in the Township of Pennsville'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 applicable; and
 - 7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

Section 11.18 - ADMINISTRATIVE AGENT

- A. The Township shall designate by resolution of the Township Committee, 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 and UHAC.
- B. An Operating Manual 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 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).
- C. The Administrative Agent 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 includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
2. Affirmative Marketing;
3. Household Certification;
4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
9. The Administrative Agent shall, as delegated by the Township Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 11.19 - 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 of Pennsville 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 Township of Pennsville 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 of Pennsville 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 \$500.00 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 Pennsville 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 Township of Pennsville 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.
- C. Such judgment shall be enforceable, at the option of the Township of Pennsville, by means of an execution sale by the Sheriff, at which time the low- and 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 Township of Pennsville, 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.
- 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 Township of Pennsville 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 Township of Pennsville 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 Township of Pennsville 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 Township of Pennsville 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 Township of Pennsville 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 Township of Pennsville. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township of Pennsville, whether such balance shall be paid to the owner or forfeited to the Township of Pennsville.
- E. Foreclosure by the Township of Pennsville 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.
- 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 Township of Pennsville 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.

- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township of Pennsville shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Township of Pennsville, 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.
- 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.

Section 11.20 - APPEALS

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

APPENDIX L

PRELIMINARY AFFIRMATIVE MARKETING PLAN

PRELIMINARY AFFIRMATIVE MARKETING PLAN
PENNSVILLE TOWNSHIP, SALEM COUNTY
For Affordable Housing in **(REGION 6)**
May 23, 2025

I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number Interstate Realty Management Company 40 Eaton Road, Pennsville, NJ 08070 Phone: 856-678-3300		1b. Development or Program Name, Address Pennsville Towers 40 Eaton Road, Pennsville, NJ 08070 (Block 3101, Lot 4)	
1c. Number of Affordable Units: 99 Number of Rental Units: 99 Number of For-Sale Units:	1d. Price or Rental Range 30% of Adjusted Gross Income	1e. State and Federal Funding Sources (if any) HUD 202 Program	
1f. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Ongoing, Already Occupied Occupancy: Already Occupied		
1h. County Atlantic, Cape May, Cumberland, Salem		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number Mindy Smith– Administrator for Interstate Realty Management Company 40 Eaton Road, Pennsville, NJ 08070 Phone: 856-678-3300			
1k. Application Fees (if any): No.			

1a. Administrative Agent Name, Address, Phone Number Ron Rukenstein, Rukenstein & Associates, LLC PO Box #1 Titusville, NJ 08560 Phone:		1b. Development or Program Name, Address Kent Avenue Apartments 11 Kent Avenue, Pennsville, NJ 08070 (Block 501, Lot 19)	
1c. Number of Affordable Units: 100 Number of Rental Units: 100 Number of For-Sale Units:	1d. Price or Rental Range From To: Includes heat, hot water; tenant pays electric. Free cable and local shuttle service.	1e. State and Federal Funding Sources (if any) Federal LIHTC HMFA Home Express Funds Special Needs Housing Trust Fund State Rental Assistance Program	
1f. <input checked="" type="checkbox"/> Age Restricted (Seniors) <input checked="" type="checkbox"/> Non-Age Restricted (Special Needs)	1g. Approximate Starting Dates Advertising: Ongoing, Already Occupied. Occupancy: Already Occupied		
1h. County Atlantic, Cape May, Cumberland, Salem		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number Ron Rukenstein, 11 Kent Avenue, Pennsville, NJ 08070			
1k. Application Fees (if any): No application fee; \$25 fee for criminal and credit background check for each applicant.			

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)			
<input type="checkbox"/> White (non-Hispanic) <input checked="" type="checkbox"/> Black (non-Hispanic) <input checked="" type="checkbox"/> Hispanic <input type="checkbox"/> American Indian or Alaskan Native <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Other group:			
3b. HOUSING RESOURCE CENTER (www.njhousing.gov) A free, online listing of affordable housing <input checked="" type="checkbox"/>			
3c. Commercial Media (required) (Check all that applies)			
	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
TARGETS ENTIRE COAH REGION 6			
Daily Newspaper			
<input type="checkbox"/>			
TARGETS PARTIAL COAH REGION 6			
Daily Newspaper			
<input type="checkbox"/>		Atlantic Daily Sentinel	Atlantic
<input type="checkbox"/>		Press of Atlantic City	Atlantic, Cape May, Cumberland, Ocean
<input checked="" type="checkbox"/>		Bridgeton News	Cumberland
<input type="checkbox"/>		Daily Journal	Cumberland
<input checked="" type="checkbox"/>		Today's Sunbeam	Salem
Weekly Newspaper			
<input type="checkbox"/>		Atlantic County Record	Atlantic
<input type="checkbox"/>		Beachcomber News	Atlantic
<input type="checkbox"/>		Current of Absecon and Galloway Township	Atlantic
<input type="checkbox"/>		Current of Down Beach	Atlantic
<input type="checkbox"/>		Current of Egg Harbor Township	Atlantic
<input type="checkbox"/>		Current of Mays Landing and Hamilton Township	Atlantic
<input type="checkbox"/>		Current of Northfield, Linwood and Somers Point	Atlantic
<input type="checkbox"/>		Egg Harbor News	Atlantic
<input type="checkbox"/>		Hammonton Gazette	Atlantic
<input type="checkbox"/>		Hammonton News	Atlantic
<input type="checkbox"/>		Mainland Journal	Atlantic
<input type="checkbox"/>		Record Journal	Atlantic
<input type="checkbox"/>		Atlantic City Weekly	Atlantic, Cape May, Cumberland

<input type="checkbox"/>		Cape May County Herald	Cape May
<input type="checkbox"/>		Cape May Gazette	Cape May
<input type="checkbox"/>		Cape May Star & Wave	Cape May
<input type="checkbox"/>		Gazette of Upper Township	Cape May
<input type="checkbox"/>		Ocean City Gazette	Cape May
<input type="checkbox"/>		Wildwood Leader	Cape May
<input type="checkbox"/>		Cumberland Reminder	Cumberland

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATION(S)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
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TARGETS ENTIRE COAH REGION 6

X		3 KYW-TV CBS Broadcasting Inc.	
<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		23 WNJS New Jersey Public Broadcasting Authority	
X		61 WPPX Paxson Communications License Company, LLC	

TARGETS PARTIAL COAH REGION 6

<input type="checkbox"/>		8 WPSJ-LP Engle Broadcasting	Atlantic
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Atlantic
<input type="checkbox"/>		40 WMGM-TV Access 1 New Jersey License Company	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		62 WWSI Hispanic Broadcasters of Philadelphia, LLC	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	Atlantic, Cumberland, Salem
<input type="checkbox"/>		12 WHYY-TV WHYY, Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Atlantic, Cumberland, Salem
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Atlantic, Cumberland, Salem
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Atlantic, Cumberland, Salem
<input type="checkbox"/>		57 WPSG CBS Broadcasting Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Atlantic, Cumberland, Salem

<input type="checkbox"/>		64 WDPB WHYY, Inc.	Cape May
<input type="checkbox"/>		2 WMAR-TV Scripps Howard Broadcasting Company	Cumberland, Salem
<input type="checkbox"/>		13 WJZ-TV CBS Broadcasting Inc.	Cumberland, Salem
<input type="checkbox"/>		43 WPMT Tribune Company	Salem

	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA
TARGETS PARTIAL COAH REGION 6			
<input type="checkbox"/>		Comcast of Avalon, South Jersey, Wildwood	All Atlantic, Cape May, Cumberland and Salem Counties

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE COAH REGION 6			
AM			
<input type="checkbox"/>		WFIL 560	Christian
<input type="checkbox"/>		WIP 610	
<input type="checkbox"/>		WNTX 990	
<input type="checkbox"/>		WWJZ 640	
FM			
<input type="checkbox"/>		WTPG-FM 96.9	
<input type="checkbox"/>		WIXM 97.3	
<input type="checkbox"/>		WMGM 103.7	
<input type="checkbox"/>		WSJO 104.9	
<input type="checkbox"/>		WZXL 100.7	
TARGETS PARTIAL COAH REGION 6			
AM			
<input type="checkbox"/>		WIBG 1020	Christian
<input type="checkbox"/>		WKXW 1450	
<input type="checkbox"/>		WMID 1340	
<input type="checkbox"/>		WOND 1400	
<input type="checkbox"/>		WTKU 1490	
<input type="checkbox"/>		WURD 900	
<input type="checkbox"/>		WGYM 1580	
<input type="checkbox"/>		KYW 1060	

<input type="checkbox"/>		WNJC 1360	
<input type="checkbox"/>		WPHT 1210	
<input type="checkbox"/>		WWDB 860	
<input type="checkbox"/>		WNWR 1540	
<input type="checkbox"/>		WPEN 950	
<input type="checkbox"/>		WCMC 1230	
<input type="checkbox"/>		WMVB 1440	
<input type="checkbox"/>		WTMR 800	
<input type="checkbox"/>		WDEL 1150	
<input type="checkbox"/>		WFAI 1510	
<input type="checkbox"/>		WMIZ 1270	Hispanics
<input type="checkbox"/>		WSNJ 1240	
<input type="checkbox"/>		WVCH 740	Christian
<input type="checkbox"/>		WPWA 1590	
FM			
<input type="checkbox"/>		WLFR 91.7	Atlantic
<input type="checkbox"/>		WTKU-FM 98.3	Atlantic
<input type="checkbox"/>		WAJM 88.9	Atlantic, Cape May
<input type="checkbox"/>		WJSE 102.7	Atlantic, Cape May
<input type="checkbox"/>		WKOE 106.3	Atlantic, Cape May
<input type="checkbox"/>		WTTH 96.1	Atlantic, Cape May
<input type="checkbox"/>		WZBZ 99.3	Atlantic, Cape May
<input type="checkbox"/>		WAYV 95.1	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WPUR 107.3	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WRTQ 91.3	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WXGN 90.5	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WXXY-FM 88.7	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WNJN-FM 89.7	Atlantic, Cumberland, Salem
<input type="checkbox"/>		WAIV 102.3	Cape May
<input type="checkbox"/>		WBZC 88.9	Cape May
<input type="checkbox"/>		WCZT 98.7	Cape May
<input type="checkbox"/>		WGBZ 105.5	Cape May

<input type="checkbox"/>		WILW 94.3	Cape May
<input type="checkbox"/>		WWCJ 89.1	Cape May
<input type="checkbox"/>		WRDX 94.7	Cape May, Cumberland, Salem
<input type="checkbox"/>		WVLT 92.1	Cape May, Cumberland, Salem
<input type="checkbox"/>		WRTI 90.1	Cape May, Salem
<input type="checkbox"/>		WBEB 101.1	Cumberland, Salem
<input type="checkbox"/>		WBEN-FM 95.7	Cumberland, Salem
<input type="checkbox"/>		WDAS-FM 105.3	Cumberland, Salem
<input type="checkbox"/>		WIOQ 102.1	Cumberland, Salem
<input type="checkbox"/>		WJBR-FM 99.5	Cumberland, Salem
<input type="checkbox"/>		WJJZ 106.1	Cumberland, Salem
<input type="checkbox"/>		WJKS 101.7	Cumberland, Salem
<input type="checkbox"/>		WKDN 106.9	Cumberland, Salem (Christian)
<input type="checkbox"/>		WMGK 102.9	Cumberland, Salem
<input type="checkbox"/>		WMMR 93.3	Cumberland, Salem
<input type="checkbox"/>		WNJB-FM 89.3	Cumberland, Salem
<input type="checkbox"/>		WOGL 98.1	Cumberland, Salem
<input type="checkbox"/>		WPHI-FM 100.3	Cumberland, Salem
<input type="checkbox"/>		WRDW-FM 96.5	Cumberland, Salem
<input type="checkbox"/>		WSTW 93.7	Cumberland, Salem
<input type="checkbox"/>		WUSL 98.9	Cumberland, Salem
<input type="checkbox"/>		WXTU 92.5	Cumberland, Salem
<input type="checkbox"/>		WYSP 94.1	Cumberland, Salem
<input type="checkbox"/>		WHYY-FM 90.9	Salem

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that applies)				
DURATION & FREQUENCY OF OUTREACH	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE	
TARGETS ENTIRE COAH REGION 6				
Weekly				
<input type="checkbox"/>		Al Dia	Philadelphia Area	Spanish-Language
<input type="checkbox"/>		Nuestra Comunidad	Central/South Jersey	Spanish-Language

TARGETS PARTIAL COAH REGION 6				
Weekly				
<input type="checkbox"/>		Jewish Times of the South Jersey Shore	South Shore area	Jewish community
<input type="checkbox"/>		Ukrainian Weekly	New Jersey	Ukrainian community
3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)				
DURATION & FREQUENCY OF OUTREACH		NAME OF EMPLOYER/COMPANY		LOCATION
Atlantic County				
<input type="checkbox"/>		AtlantiCare Health System	2500 English Creek Ave, Egg Harbor Twp, NJ	
<input type="checkbox"/>		Shore Memorial Hospital	700 Shore Rd, Somers Point, NJ	
<input type="checkbox"/>		Atlantic City Electric	2542 Fire Rd, Egg Harbor Township, NJ	
<input type="checkbox"/>		Wawa	various locations	
<input type="checkbox"/>		Wal-mart	various locations	
<input type="checkbox"/>		Shoprite	various locations	
<input type="checkbox"/>		Kessler Memorial Hospital	600 S White Horse Pike, Hammonton, NJ	
<input type="checkbox"/>		South Jersey Industries Inc.	1 South Jersey Plz, Hammonton, NJ	
<input type="checkbox"/>		Flagship Resort	60 N Maine Ave, Atlantic City, NJ	
<input type="checkbox"/>		Bacharach Institute for Rehabilitation	61 West Jimmie Leeds Road Pomona, NJ	
<input type="checkbox"/>		Lowes Home Improvement	various locations	
<input type="checkbox"/>		Home Depot	various locations	
<input type="checkbox"/>		Comar Inc.	1 Comar Pl, Buena, NJ	
<input type="checkbox"/>		Marriot Seaview Resorts	401 S New York Rd, Galloway, NJ	
<input type="checkbox"/>		Ole Hansen & Sons	100 Old Port Republic Rd, Galloway, NJ	
<input type="checkbox"/>		Acme Markets	various locations	
<input type="checkbox"/>		Atlantic City Linen	18 N New Jersey Ave, Atlantic City, NJ	
<input type="checkbox"/>		The Press of Atlantic City	1000 W Washington Ave, Pleasantville, NJ	
Cape May County				
<input type="checkbox"/>		Cape Regional Medical Center	2 Stone Harbor Blvd, Cape May Court House, NJ 08210	
<input type="checkbox"/>		Cold Spring Rush Fish and Supply Co	906 Schellenger St, Cape May, NJ	
<input type="checkbox"/>		Acme Markets	various locations	
<input type="checkbox"/>		Wawa	various locations	

<input type="checkbox"/>		Cape Counseling Services	687 Route 9, Cape May, NJ
<input type="checkbox"/>		Shores at Wesley Manor	2201 Bay Ave, Ocean City, NJ
<input type="checkbox"/>		Shop Rite	various locations
<input type="checkbox"/>		Verizon	various locations
<input type="checkbox"/>		Holy Redeemer Visiting Nurse Association	6727 Delilah Rd # F, Egg Harbor Twp, NJ
Cumberland County			
<input type="checkbox"/>		South Jersey Healthcare	333 Irving Ave, Bridgeton, NJ
<input type="checkbox"/>		Durand Glass Manufacturing Co.	901 S. Wade Blvd, Millville, NJ
<input type="checkbox"/>		Training School at Vineland	1667 E. Landis Ave Vineland, NJ 08361
<input type="checkbox"/>		Alcan Global Pharmaceutical Packaging Inc.	1101 Wheaton Ave, Millville, NJ
<input type="checkbox"/>		Kimble Glass Inc./ Kontes Glass Co.	537 Crystal Ave, Vineland, NJ and 1300 Wheaton Ave, Millville, NJ 1022 Spruce St, Vineland, NJ
<input type="checkbox"/>		Wawa	various locations
<input type="checkbox"/>		Wheaton Science Products	1501 N 10th St, Millville, NJ
<input type="checkbox"/>		ShopRite	various locations
<input type="checkbox"/>		Progresso Quality Foods	3501 S East Blvd, Vineland, NJ
<input type="checkbox"/>		Seabrook Brothers & Sons Inc.	1031 Parsonage Rd, Bridgeton, NJ
<input type="checkbox"/>		Sheppard Bus Service	35 Rockville Rd, Bridgeton, NJ and 212 L St, Millville, NJ
<input type="checkbox"/>		Acme Markets Inc.	101 Bluebird Ln, Millville, NJ
X		Wal-mart	various locations
<input type="checkbox"/>		Leone Industries	443 S East Ave, Bridgeton, NJ
<input type="checkbox"/>		Silverton Marine Corp.	301 Riverside Dr, Millville, NJ
<input type="checkbox"/>		Sun National Bank	various locations
<input type="checkbox"/>		F&S Produce	913 Bridgeton Ave, Rosenhayn, NJ
X		Tri-County Community Action Partnership	110 Cohansey Street, Bridgeton
Salem County			
X		PSE&G	162 Route 45 Salem, NJ 08079
X		Dupont De Nemours E I & Co.	Penns Grove, NJ 08069
X		Mannington Mills	Frog Ocean Rd, Salem, NJ and 75 Mannington Mills Rd
X		Memorial Hospital of Salem county	310 Woodstown Rd, Salem, NJ
X		Conectiv	5 Collins Dr, Penns Grove, NJ
X		Anchor Glass Container Corp.	83 Griffith St, Salem, NJ

X		SJH Elmer Hospital	501 Front St, Elmer
X		GEON Company	Porcupine Rd & US Highway, Pedricktown, NJ
X		B&B Poultry	Almond Rd, Norma, NJ
3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements, distribute flyers regarding available affordable housing, and provide applications)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach
Habitat for Humanity	Salem County		Quarterly
Atlantic County Dept. of Family and Community Development	Atlantic County		Quarterly
Cape May County Board of Social Services	Cape May County		Quarterly
Cumberland County Board of Social Services	Cumberland County		Quarterly
Salem County Board of Social Services	Salem County		Quarterly
Atlantic County Division of Intergenerational Services	Atlantic County		Quarterly
Cape May County Department of Aging	Cape May County		Quarterly
Cumberland County Office on Aging and Disabled	Cumberland County		Quarterly
Salem County Department of Aging	Salem County		Quarterly
Atlantic City and County Board of Realtors	Atlantic County		Quarterly
Cumberland County Board of Realtors	Cumberland County		Quarterly
Cape May County Association of Realtors	Cape May County		Quarterly
Salem County Board of Realtors	Salem County		Quarterly
Fair Share Housing Center	State		Quarterly
New Jersey State Conference of the NAACP	State		Quarterly
Salem County NAACP	Salem County		Quarterly
Latino Action Network	State		Quarterly

IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)		
	BUILDING	LOCATION
X	Atlantic County	5901 Main Street, Mays Landing, NJ 08330 (609)625-4011
X	Cape May County Main Library	30 Mechanic Street, Cape May Courthouse, NJ
X	Cumberland County Library	800 East Commerce Street, Bridgeton, NJ 08302
X	Salem County Court House	92 Market Street, Salem, NJ 08079 (609)935-7510 Ext:8202
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		

Pennsville Municipal Building, 90 N. Broadway, Pennsville, NJ 08070 – Deneen Parkinson Pennsville Public Library, 190 N. Broadway, Pennsville, NJ 08070 – Nancy Whitesell
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4c. Sales/Rental Office for units (if applicable)

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect Borough's Judgment of Repose.

Name (Type or Print)

<u>Planner, Pennsville Township</u> Title/Municipality

Signature

Date <u>May 23, 2025</u>

APPENDIX M

DEVELOPMENT FEE ORDINANCE

CHAPTER 10 – COAH (COUNCIL ON AFFORDABLE HOUSING)

Section 10.1 - PURPOSE

- A. In Holmdel Builder's Association v Holmdel Township, 121 NJ 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, NJSA 52:27d-301, et seq, and the State Constitution, subject to the Counsel on Affordable Housing's (hereafter referred to as COAH) adoption of rules.
- B. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the statewide Non-residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH 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 ordinance established standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-28. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low and moderate income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at NJAC 5:97-8

Section 10.2 - BASIC REQUIREMENTS

- A. COAH initially approved Pennsville Township's affordable housing development fee ordinance on February 27, 2006, and COAH most recently approved an amendment to the Township's development fee ordinance (this Chapter) on April 2, 2009. Any future ordinance amendments shall not be effective until approved by COAH pursuant to NJAC 5:96-5.1.
- B. COAH initially approved the Township of Pennsville's spending plan on June 13, 2006, and most recently approved the Township's third round spending plan on April 13, 2009. The Township of Pennsville shall not spend development fees on compliance mechanisms not in the Township's COAH-approved spending plan until COAH has approved an amended plan for spending such fees in conformance with NJAC 5:96-5.3.

Section 10.3 - DEFINITIONS

Affordable housing development means 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 percent affordable development.

COAH or the Council means 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.

Development fee means money paid by developer for the improvement of property as permitted in NJAC 5:97-8.3.

Developer means 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.

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.)

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.

Section 10.4 RESIDENTIAL DEVELOPMENT FEES

A. Imposed fees

1. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
2. When an increase in residential density pursuant to NJSA 40:55D-70d(5) (known as the “d” variance) has been permitted, developers may be required to pay a development fee of six percent (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 calculation 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 one and a half percent of the equalized value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, providing 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 shall be exempt from development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. 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.
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. Developers of residential structures demolished and replaced as a result of a natural disaster shall be exempt from paying a development fee.

Section 10.5 - NON-RESIDENTIAL DEVELOPMENT FEES

A. Imposed 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 two and one-half percent (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. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one half percent (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 two and one half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time 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 the two and a half percent (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 P.L. 2008, c 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. 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 P.L. 2008, c. 46 shall be subject to it at such time 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 which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Pennsville as a lien against the real property owner.

Section 10.6 - COLLECTION PROCEDURES – COLLECTION OF FEES

- A. Upon the granting of preliminary, final or other applicable approval for a development by the Pennsville Planning Board, the Board Secretary shall notify the Construction Code Office of such approval, as well as the Township's Tax Assessor.
- B. For non-residential development only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in 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 Code Official responsible for the issuance of building permits shall notify the Tax Assessor prior to the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of that notice, the Pennsville Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development to the Construction Code Office.
- E. Fifty (50%) percent of the development fee shall be paid to the construction official at the time of the issuance of the building permit. The remaining portion of the development fee shall be paid to the construction official at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of the issuance of the building permit and that determined at issuance of the certificate of occupancy. Water and sewer service shall not be provided to the premises in question until such time as the final development fee is paid.
- F. The construction official responsible for the issuance of a final certificate of occupancy shall notify the Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to development fees.
- G. Within ten (10) business days of a request for the scheduling of a final inspection, the Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee, and thereafter notify the Construction Code Office and the developer of the amount of such fee.
- H. Should the Township of Pennsville fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay the 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).

I. Appeal of development fees

1. A developer may challenge residential development fees imposed by filing a challenge with the County of Salem Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Pennsville. 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 a non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Pennsville. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of 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.

J. Notwithstanding the provisions of this section, the Construction Code Official shall continue to collect both residential and non-residential development fees as set forth hereinabove, except that residential development fees shall only be collected for such development where an application for a building permit is submitted after October 1, 2009.

Section 10.7 - 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 will be extinguished controls.

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

1. Payments in lieu of on-site construction of affordable units;
2. Developer contributed funds to make ten percent (10%) of the adaptable entrances in a town house or other multi-story attached development accessible;
3. Rental income from Township 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 Township of Pennsville's affordable housing program.

C. Within seven days from the opening of the trust fund account, the Township of Pennsville shall provide COAH with written authorization, in the form of a three-party escrow agreement between the Township, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in NJAC 5:97-8.13(b)

D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

Section 10.8 - USE OF FUNDS

A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of Pennsville'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, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to NJAC 5:97-8.7 through 8.9 and specified in the approved spending plan.

B. Funds shall not be expended to reimburse the Township of Pennsville for past housing activities.

C. At least 30 percent 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 Township's Fair Share Plan. One third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of 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, and assistance with emergency repairs.
2. Affordability assistance to household earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the Township's Fair Share Plan to make them affordable to households earning 30 percent 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. The Township of Pennsville 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 NJAC 5:96-18.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration including, but not limited to, salaries and benefits for Township employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such 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.

Section 10.9 - MONITORING

A. The Township of Pennsville 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 other funds collected in connection with the Township of Pennsville'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.

Section 10.10 - ONGOING COLLECTION OF FEES

A. The ability for the Township of Pennsville to impose, collect and expend development fees shall expire with its substantive certification unless the township of Pennsville 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. If the Township of Pennsville fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any and all funds remaining in its Township trust fund. Any funds so forfeited shall be deposited in to the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 195, c. 222 (C.52:27D-320). The Township of Pennsville shall not impose a residential development fee on a development that received preliminary or final site plan approval after the day of expiration of its substantive certification or judgment of compliance, nor shall the Township of Pennsville retroactively impose a development fee on such a development. The Township of Pennsville shall not expend development fees after the expiration of its substantive certification of judgment of compliance.

APPENDIX N

SPENDING PLAN

**FOURTH ROUND SPENDING PLAN OF THE
HOUSING ELEMENT AND FAIR SHARE PLAN
TOWNSHIP OF PENNSVILLE**

INTRODUCTION

Pennsville Township has prepared a Fourth Round Housing Element and Fair Share Plan (“HEFSP”) that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (*N.J.S.A. 40:55D-1 et seq.*), the Fair Housing Act (*N.J.S.A. 52:27D-301*) as amended by P.L. 2024, c.2, and the remaining valid regulations of the Council on Affordable Housing (“COAH”) found at *N.J.A.C. 5:93-1* and *N.J.A.C. 5:97-8*.

On February 27, 2006, COAH approved Pennsville Township’s adopted development fee ordinance, which created a dedicated revenue source for affordable housing and established the Township’s affordable housing trust fund. An amended development fee ordinance was most recently adopted by Pennsville in 2015. The Township prepared earlier Third Round Spending Plans in 2005 and in 2008 that were approved by COAH on June 13, 2006 and April 13, 2009 (respectively). Pursuant to the NJ Supreme Court’s March 10, 2015 decision, the Township prepared an updated Third Round HEFSP and Third Round Spending Plan in 2017, which were approved by the Court in a Third Round Judgment of Repose, dated December 19, 2017.

As of December 31, 2024, Pennsville Township has collected a total of \$2,039,137 in development fees and interest (with almost \$1.7 million of this total collected only recently in December 2023 from a warehouse development fee payment) and has spent a total of \$11,000 on affordable housing activities and \$248,093 on administrative costs, leaving a balance of \$1,780,043. All trust fund revenue is deposited into an interest-bearing bank account with Pennsville National Bank.

In addition to the current balance of \$1,780,043, Pennsville Township anticipates \$1,268,374 in future revenues by the end of the Fourth Round period, for a total of \$3,048,417. The Township intends to use its trust fund revenues to support development costs and provide affordability assistance for two proposed 100% affordable developments, located at new Site #10 and the Pennsville Towers Expansion site, pending the availability of future projected development fees and trust funds. Additional trust fund expenditures will include the rehabilitation of existing deficient housing units occupied by low- and moderate-income households, with a partial funding set aside now, a general affordability assistance program, and administrative costs related to affordable housing efforts. These funds shall be spent for affordable housing purposes in accordance with *N.J.A.C. 5:93-8.16*, as described in the sections that follow.

Pennsville Township acknowledges that the expenditure of funds contemplated in this Fourth Round Spending Plan constitute a ‘commitment’ for expenditure pursuant to N.J.S.A. 52:27D-329.2.d., with the four-year time period beginning to run with the date of collection of the funds as extended by virtue of the date of the Superior Court’s approval of this Fourth Round Spending Plan.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the Fourth Round (2025-2035), Pennsville Township considered the following:

A. Development Fees: \$1,237,401

1. Residential and non-residential projects that have had development fees imposed upon them at the time of preliminary or final development approvals.
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy.
3. Future development that is likely to occur based on historical rates of development.

B. Payments in Lieu (PIL) of Construction: \$0

Actual and committed payments in lieu (“PIL”) of construction from developers. No revenues from PILs are expected over the Fourth Round period as the FHA was amended by P.L. 2024, c.2 to eliminate N.J.S.A. 52:27D-329.3 which had enabled PILs.

C. Other Funding Sources: \$0

Pennsville Township does not anticipate future funds from this category at this time. Funds from other sources, include, but are not limited to the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units. All monies in the Affordable Housing Trust fund are anticipated to come from development fees and interest.

D. Projected Interest: \$30,973

Based on the current interest rate and projected development fee revenue, Pennsville Township anticipates collecting \$30,973 in interest through 2035.

Table SP-1. Projected Affordable Housing Trust Fund Revenues – January 1 2025 through June 30, 2035

Year Source of Funds	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2025-2035 Total
Projected Residential Development Fees	\$20,639	\$27,000	\$0	\$558,000	\$0	\$22,500	\$0	\$0	\$0	\$0	\$0	\$628,139
Projected Non- Residential Development Fees	\$45,590	\$230,860	\$332,813	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$609,262
Interest	\$5,207	\$5,665	\$6,352	\$5,012	\$3,339	\$1,724	\$1,385	\$1,045	\$702	\$358	\$185	\$30,973
Total	\$71,435	\$263,525	\$339,164	\$563,012	\$3,339	\$24,224	\$1,385	\$1,045	\$702	\$358	\$185	\$1,268,374

Assumptions: Pennsville Township projects a total of \$1,268,374 in revenue to be collected between 2025 and 2035 from residential and non-residential development fees and accrued interest. As informed by the Township's Planning Board Engineer, projected residential development fees are based on 135 single-family residences that are under construction or are under review (each valued at \$300,000) plus an additional \$20,639 development fee that was collected in March 2025. Non-residential development fees are approximate for purposes of fee projections and based on existing approvals and anticipated commercial development, including an approved warehouse development (projected \$332,813 development fee); a Tractor Supply retail store that is currently under construction (\$65,860 fee); a solar facility currently under construction (\$165,000 fee); and a \$45,590 nonresidential development fee collected in March 2025 from a Wawa convenience store currently under construction. Interest is anticipated at approximately 0.3%.

2. ADMINISTRATIVE MECHANISMS TO COLLECT AND DISTRIBUTE FUNDS

The following steps for the collection and distribution of development fee revenues shall be followed by Pennsville Township.

A. Collection of development fee revenues.

All collection of development fee revenues will be consistent with local regulations which follow COAH administrative models for both residential and non-residential developments and in accordance with N.J.S.A. 40:55D-8.1 through 8.7 and the amended FHA at P.L. 2024, c.2 (N.J.S.A. 52:27D-329.2).

B. Distribution of development fee revenues.

The governing body reviews a request for expenditure for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

Rehabilitation Program (N.J.A.C. 5:93-5.2)

As documented in the Fourth Round HEFSP, Pennsville Township's Present Need/Rehabilitation obligation is 69 units. The Township intends to partially address this obligation by applying for funding through the New Jersey Department of Community Affairs ("DCA") Small Cities Community Development Block Grant ("CDBG") program, which supports owner-occupied rehabilitations. Pennsville Township is eligible to receive up to \$200,000 in funding through this program. At this time, the Township will set aside \$20,000 from its affordable housing trust fund to provide the required 10% match for the DCA Small Cities funding.

In accordance with N.J.A.C. 5:97-6.2(b)3, which requires municipalities to provide sufficient funding to address no less than half of the municipal rehabilitation obligation by the midpoint of the certification period, the Township will reserve funds for 35 units, one-half of its Present Need obligation, and will make the rehabilitation program available to both owner-occupied units and rental units. At this time, the Township will set aside \$525,000 from its affordable housing trust fund to support these 35 rehabilitations, using an average of \$12,000 per unit for hard costs (e.g., major system repairs or replacements) and \$3,000 per unit for administrative expenses, totaling \$15,000 per unit. At the midpoint review, the Township will reassess the program and determine whether additional funds need to be reserved to meet its full rehabilitation obligation.

Housing Activity (N.J.A.C. 5:93-8.16(a))

Pennsville Township intends to contribute substantial funds of \$900,000 to each of two (2) proposed 100% affordable housing developments located at new Site #10 and the Pennsville Towers Expansion site, totaling approximately \$1.8 million. Of the \$1.8 million total, approximately \$800,000 (\$400,000 allocated to each site) will consist of housing activity expenditures that may be used for land acquisition costs and development/pre-development expenditures and approximately \$1 million (\$500,000 to each site) will consist of affordability assistance as discussed below. A portion of this anticipated \$1 million affordability assistance expenditure, a minimum of \$400,000 (\$200,000 to each site) will be designated as very low-income affordability assistance for the production of very low-income rental units.

Any future expenditures towards the proposed 100% affordable developments are contingent on the availability of future projected development fees and trust funds. Table SP-2 summarizes the anticipated expenditures for the two proposed 100% affordable housing developments.

Table SP-2. 100% Affordable Development Expenditures

100% Affordable Development	Total Allocation	Housing Activity	Affordability Assistance	VLI Affordability Assistance (included in Afford. Assistance Total)
New Site #10	\$900,000	\$400,000	\$500,000	\$200,000
Pennsville Senior Towers Expansion	\$900,000	\$400,000	\$500,000	\$200,000
Total	\$1,800,000	\$800,000	\$1,000,000	\$400,000

Affordability Assistance (N.J.A.C. 5:93-8.16(c))

To date, although Pennsville previously committed affordable housing trust funds to an emergency repair affordability assistance program, the Township has not yet expended trust funds on affordability assistance, as the Township only recently received a significant trust fund deposit of \$1.7 million in December 2023. Going forward into the Fourth Round, the Township is required to spend a minimum of 30 percent of trust fund revenue generated from development fees and interest to render existing affordable units more affordable and at least one-third of that amount must be dedicated to very low-income households or to create very low-income units (i.e. households earning less than 30 percent of the regional median income).

Pennsville Township's affordability assistance requirement is based upon 30 percent of actual and projected interest and development fees. As shown in Table SP-3 the Township's projected minimum affordability assistance requirement through June 30, 2035 is approximately \$992,253.27. The projected minimum very low-income affordability assistance requirement through June 30, 2035 is approximately \$330,751.09. The actual affordability assistance minimums are calculated on an ongoing basis based on actual revenues.

Table SP-3. Projected Minimum Affordability Assistance Requirement and Very Low-Income Affordability Assistance Requirement.

Actual development fees to 12/31/2024		\$2,035,785.47
Actual interest earned to 12/31/2024	+	\$3,351.28
Development fees projected 1/1/2025-6/30/2035	+	\$1,237,401.02
Interest projected 1/1/2025-6/30/2035	+	\$30,973.12
Amount Subject to Requirement Total	=	\$3,307,510.89
30% requirement	x 0.30 =	\$992,253.27
1/3 requirement	÷ 3 =	\$330,751.09
Less very low-income affordability assistance expenditures to 12/31/2024	-	\$0.00
Projected Minimum Affordability Assistance Requirement	=	\$992,253.27
Projected Minimum Very Low-Income Affordability Assistance Requirement	=	\$330,751.09

The Township will more than exceed its projected minimum affordability assistance requirement of approximately \$992,253.27 by subsidizing two proposed 100% affordable developments, located at new Site #10 and the Pennsville Senior Towers expansion site. The Township will provide at least \$1 million in affordability assistance to these sites, including \$500,000 allocated to each site. As both developments will include very low-income units, a minimum of \$400,000 of the total affordability assistance payments will be designated specifically for very low-income affordability assistance (approximately \$200,000 at each site).

Table SP-4. Affordability Assistance Expenditures

Expenditure	Affordability Assistance	VLI Affordability Assistance (part of the Afford Assist Total)
New Site #10	\$500,000	\$200,000
Pennsville Senior Towers Expansion	\$500,000	\$200,000
Affordability Assistance Program	\$303,417	\$100,000
Total	\$1,303,417	\$500,000
Minimum Required	\$992,253.27	\$330,751.09

In addition to supporting the proposed 100% affordable housing developments, Pennsville Township will also allocate approximately \$300,000 towards a general affordability assistance program. Of this amount, approximately \$100,000 (one-third) will be used to support very low-income units. As part of this affordability assistance program, trust funds may be expended for various purposes, including but not limited to the following:

- Rental assistance;
- Security deposit assistance;
- Emergency repairs; and/or
- Converting low-income units to very-low-income units or creating new very-low income units, etc.

Administrative Expenses (N.J.A.C. 5:93-8.16(e))

Pennsville Township may use up to 20 percent of affordable housing trust funds collected for administrative expenditures, pending availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

Table SP-5. Projected Allowed Administrative Expense

Actual development fees to 12/31/2024		\$2,035,785.47
Actual interest earned to 12/31/2024	+	\$3,351.28
Development fees projected 1/1/2025-6/30/2035	+	\$1,237,401.02
Interest projected 1/1/2025-12/31/2035	+	\$30,973.12
Total	=	\$3,307,510.89
20% maximum permitted administrative expenses	x 0.20 =	\$661,502.18
Less administrative expenditures through 12/31/2024	-	\$248,093.41
Projected allowed administrative expenditures 1/1/2025 to 6/30/2035	=	\$413,408.77

Pennsville Township projects that \$413,408.77 may be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Township Administrator, Attorney, Engineer, and Planner fees related to plan preparation and implementation;
- Full Administrative Agent duties including income qualification of households, affirmative marketing, etc.;
- Monitoring the turnover of for-sale and rental units;
- Compliance with court-ordered monitoring requirements.

5. EXPENDITURE SCHEDULE

Pennsville Township intends to use affordable housing trust fund revenues to support two proposed 100% affordable development, for the rehabilitation of substandard housing units, for a general affordability assistance program, pending the availability of future projected development fees and trust funds, as well as towards affordable housing administration. Table SP-6 includes a generalized schedule for these expenditures.

Table SP-6 - Projected Expenditure Schedule 2025 through 2035

Program	Units	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2025-2035 Total
Rehabilitation Hard and Soft Costs	35	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$51.9k	\$26k	\$545k
New Site #10 – Proposed 100% Affordable Development	60	\$0	\$900k	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$900k
Proposed Pennsville Senior Towers Expansion – 100% Affordable	-	\$0	\$900k	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$900k
Affordability Assistance Program	-	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$28.9k	\$14.4k	\$303.4k
Administration	-	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$38.1k	\$19k	\$400k
Total	95	\$118.9k	\$1.9m	\$118.9k	\$118.9k	\$118.9k	\$118.9k	\$118.9k	\$118.9k	\$118.9k	\$118.9k	\$59.4k	\$3m

6. EXCESS OR SHORTFALL OF FUNDS

The Township intends to expend all current and future revenues toward rehabilitation, affordability assistance including very low-income affordability assistance, and the new construction mechanisms described in the Fourth Round Housing Element and Fair Share Plan. Per the Court-approved 2024 amended FSHC agreement, the Township is not required to adopt a resolution to fund a shortfall in funding the two (2) proposed 100% affordable housing developments. Instead, the Township is permitted to enact by-right inclusionary residential development on new Site #10 as the agreed upon alternative if the proposed 100% affordable housing developments don't come to fruition.

7. SUMMARY

Pennsville Township intends to spend current/projected affordable housing trust funds per the amended FHA regulations and consistent with the affordable housing programs in its 2025 Fourth Round HEFSP. As of December 31, 2024, the Township had an account balance of \$1,780,043. The Township anticipates approximately \$1,268,374 to be collected between January 1, 2025 and June 30, 2035, for a total of approximately \$3,048,417 in available funds. The Township will spend up to \$1.8 million on two proposed 100% affordable developments, located at new Site #10 and the Pennsville Towers Expansion site (\$900,000 to each site), pending the availability of future projected development fees and trust funds. In addition, the Township will spend up to \$545,000 toward the rehabilitation of existing deficient housing units, up to \$303,417 on an affordability assistance program, and up to \$400,000 on administrative costs related to affordable housing.

Table SP-7. Spending Plan Summary

Revenues		
Balance as of December 31, 2024		\$1,780,043
Projected Revenue from 1/1/2025 through 6/31/2035		
1. Residential Development fees	+	\$628,139
2. Non-Residential Development fees	+	\$609,262
3. Interest	+	\$30,973
Total Projected Funds	=	\$3,048,417
Expenditures		
Rehabilitation (35 units x \$15,000) and DCA Small Cities grant application (\$20,000)		\$545,000
100% Affordable – New Site #10		
Housing Activity	+	\$400,000
Affordability Assistance, including very low-income units	+	\$500,000
100% Affordable – Pennsville Senior Towers Expansion		
Housing Activity	+	\$400,000
Affordability Assistance, including very low-income units	+	\$500,000
Affordability Assistance Program	+	\$303,417
Administration	+	\$400,000
Total Projected Expenditures	=	\$3,048,417