

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
SEPTEMBER 28, 2020, 7:00 P.M.**

<https://us02web.zoom.us/j/82603717768>

iPhone or Land Line Telephone Call: In: 1-267-831-0333

Webinar ID: 826 0371 7768

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Meditation:**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Banahan Chrisner-Keefe Koch
McCue Rodriguez Sorensen
6. **Proclamation**
-Random Acts of Beauty
7. **Workshop Session**
-Request from Jersey Shore Youth Rugby to post their lawn signs (September 29-October 26)
-Annual Red Bank CROP Walk (being held virtually on October 18th)
8. **Public Comment on Agenda Items**
9. **Approval of Minutes**
-September 14, 2020 Regular Meeting
-September 14, 2020 Executive Session
10. **Old Business**
Hearing and Adoption of Ordinances
2020-05 Establish an Affordable Housing Ordinance
2020-06 Create an Affordable Housing Mandatory Set-Aside Ordinance
2020-07 Create a Habitat Rezoning Ordinance
2020-08 Create an Affordable Housing Overlay Ordinance
2020-10 Create an Affordable Housing Development Fee Ordinance

Ordinance Amendment and Reintroduction
2020-09 Amend the Ordinance Creating an Affordable Accessory Apartment Ordinance
11. **New Business**
Council Committee Reports
Finance - Councilman Banahan
Personnel - Councilwoman Chrisner-Keefe
Planning & Zoning - Councilwoman Koch
Police, Fire & OEM - Councilman McCue
Engineering, DPW and Borough Facilities - Councilman Rodriguez
Parks and Recreation and Communications - Councilwoman Sorensen

Consent Agenda

Resolutions

| | |
|----------|---|
| 2020-163 | Executive Session: Litigation and Contract Negotiations |
| 2020-164 | Dedication by Rider – Affordable Housing Trust Fund |
| 2020-165 | Endorse Housing Element and Fair Share Plan |
| 2020-166 | Appoint an Administrative Agent for Fair Share Housing - Heyer and Gruel |
| 2020-167 | Appoint a Fair Share Municipal Housing Liaison - Joseph Mulé |
| 2020-168 | Adopt the Fair Haven Affirmative Marketing Plan for Fair Share Housing |
| 2020-169 | Approve the Intent to Fund or Bond Shortfall – Fair Share Housing |
| 2020-170 | Appoint Part Time School Crossing Guard – Scott W. Beattie |
| 2020-171 | Authorize the Purchase of the Generator for the Police Department/Community Center |
| 2020-172 | Payment of Vouchers |
| 2020-173 | Authorize and Adopt the For Sale Operating Manual, The Rental Operating Manual and Accessory Apartment Operating Manual |
| 2020-174 | Approve Spending Plan for Affordable Housing |

Department Reports

August 2020

- Chief Financial Officer
- Municipal Court

Budget Status

12. **Good of the Borough - Please stand and identify yourself by clearly stating your name and address for the record** (*Please observe a time limit of three minutes*)
13. **Adjournment**

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

The Fair Haven Borough Council and the Mayor welcome comments, suggestions and inquiries from residents of Fair Haven. To that end, provision is made for a public discussion period at each meeting. It is listed as:

“Public Discussion” – near the end of the meeting where any topic may be addressed.

You must wait to be recognized by the Mayor. **IDENTIFY YOURSELF BY CLEARLY STATING YOUR NAME AND ADDRESS FOR THE RECORD.** Limit your comments to three (3) minutes. Once a particular topic has been addressed by a member of the public, he/she will not be recognized to talk again on the same topic until all others have been heard a first time.

If you wish to reserve time to speak in advance, you may address your request to Allyson Cinquegrana at 732-747-0241 extension *221, by noon on the Friday preceding the meeting.

You will **NOT** be recognized, **NOR SHOULD YOU COMMENT OR CARRY ON A DEBATE OR DIALOGUE WHILE BUSINESS OF THE BOROUGH IS BEING ADDRESSED BY MAYOR AND COUNCIL.**

THE NEXT COUNCIL MEETING WILL BE HELD ON **TUESDAY, OCTOBER 13, 2020**

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2020-05**

AN ORDINANCE ADDING SECTION 15.2 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED “AFFORDABLE HOUSING ORDINANCE”, AND WILL ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 15.2 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Affordable Housing Ordinance”, under a new section entitled “Section 15 15 Affordable Housing Requirements,” is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.2 Affordable Housing Ordinance

A. Purpose.

1. This Section is intended to assure that very-low, low-, and moderate-income units ("affordable units") are created with controls on affordability and that very-low, low-, and moderate-income households shall occupy these units. This Section shall apply except where inconsistent with applicable law.
2. The Borough of Fair Haven 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. (hereinafter “Fair Share Plan”). The Fair Share Plan was endorsed by the Borough Council. The Fair Share Plan describes how the Borough of Fair Haven shall address its fair share of very-low, low-, and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Borough and Fair Share Housing Center (“FSHC”) on February 12, 2020 (hereinafter “FSHC Settlement Agreement”), the Superior Court Order approving same, which was entered by the Court on June 4, 2020 after a properly noticed Fairness Hearing.
3. The Borough of Fair Haven shall track the status of the implementation of the Fair Share Plan.

B. Monitoring and Reporting Requirements.

The Borough of Fair Haven shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Superior Court-approved Housing Element and Fair Share Plan:

1. Beginning one year after the entry of the Borough’s Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough shall provide an annual report of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The report shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. Beginning one year after the entry of the Borough’s Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide an annual report of the

status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Superior Court Appointed Special Master and FSHC.

3. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during its ten (10) year repose period. The Borough will comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review due on July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Borough, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Superior Court regarding these issues.
 - b. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third anniversary of the entry of the Borough's Judgement of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low-income requirements, including the family very-low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very-low-income housing obligation under the terms of this settlement.
 - c. In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the State level.

C. Definitions.

The following terms when used in this Section shall have the meanings given in this Section:

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

“Accessory Apartment” shall mean 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.

“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 designated by the Borough responsible for the administration of affordable units in accordance with this ordinance, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC)(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 by COAH in its applicable regulations or an equivalent controlling New Jersey state agency; 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 Borough’s Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

“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 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of 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 arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulate 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 very-low-income household, low-income household or moderate-income household.

“COAH” means the New Jersey Council on Affordable Housing.

“The Department” means 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.

“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 percent 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 the Department.

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

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

“Municipal Housing Liaison” means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Fair Haven.

“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 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by COAH or a successor entity.

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

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

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

“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 percent 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.

D. Applicability.

1. The provisions of this Section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Fair Haven pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
2. This Section shall apply to all developments that contain very low-, low-, and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low-, and moderate-income housing units.

E. Alternative Living Arrangements.

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Superior Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a twenty (20) year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty (30) year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Superior Court.

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

F. Phasing Schedule for Inclusionary Developments.

In inclusionary developments the following schedule shall be followed:

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

G. New Construction.

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

- a. 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. At least thirteen percent (13%) of all restricted rental units shall be very-low-income units (affordable to a household earning thirty percent (30%) or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least fifty percent (50%) of the very-low-income units must be available to families.
- b. In each affordable development, at least fifty percent (50) of the restricted units within each bedroom distribution shall be very-low or low-income units.
- c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one (1) bedroom units shall be no greater than twenty percent (20%) of the total low- and moderate-income units;
 - ii. At least thirty percent (30%) of all low- and moderate-income units shall be two (2) bedroom units;
 - iii. At least twenty percent (20%) of all low- and moderate-income units shall be three (3) bedroom units; and
 - iv. The remaining units may be allocated among two (2) and three (3) bedroom units at the discretion of the developer.
- d. 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. This standard may be met by having all one (1) bedroom units or by having a two (2) bedroom unit for each efficiency unit.

2. Accessibility Requirements:

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7.
- b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one (1) other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor; and
 - ii. An adaptable kitchen on the first floor; and
 - iii. An interior accessible route of travel on the first floor; and
 - iv. 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
 - v. If all of the foregoing requirements in paragraphs b.i. through b.iv. above cannot be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.i. through b.iv. above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - vi. 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 Fair Haven has collected funds from the developer sufficient to make ten percent (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 into the Borough of Fair Haven's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - (3) The funds deposited under Paragraph vi. above shall be used by the Borough of Fair Haven for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Fair Haven for the conversion of adaptable to accessible entrances.
 - (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 Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

- a. In inclusionary developments, very-low, low-, and moderate-income units shall be integrated with the market units to the extent possible.
- b. In inclusionary developments, very-low, low-, and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (52%) of median income.
- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen percent (13%) of all low- and moderate-income rental units shall be affordable to very-low-income households, which very-low-income units shall be part of the low-income requirement.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55%) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one (1) person household;
 - ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - iii. A two (2) bedroom unit shall be affordable to a three (3) person household;
 - iv. A three (3) bedroom unit shall be affordable to a four and one-half (4.5) person household; and
 - v. A four (4) bedroom unit shall be affordable to a six (6) person household.
- d. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one (1) person household;

- ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - iii. A two (2) bedroom unit shall be affordable to a two (2) person household or to two (2) one (1) person households.
- e. 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 ninety-five percent (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 twenty-eight percent (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.
- f. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty percent (30%) of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, 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.
- g. Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within thirty (30) days of the publication of determinations of median income by HUD as follows:
- i. The income limit for a moderate-income unit for a household of four shall be eighty percent (80%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a low-income unit for a household of four shall be fifty percent (50%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a very low income unit for a household of four shall be thirty percent (30%) of the HUD determination of the median income for COAH Region 4 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 the previous year.
 - ii. The income limits are based on carrying out the process in Paragraph i. based on HUD determination of median income for the current Fiscal Year, and shall be utilized by the Borough until new income limits are available.
- h. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
- i. The price of owner-occupied very-low, low-, and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Paragraph g. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
 - ii. The rents of very-low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Southern New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent

(9%) in any one (1) 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.

H. Utilities.

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its Section 8 program.

I. Occupancy Standards.

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

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

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

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Section for a period of at least thirty (30) years, until Fair Haven Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 restrictions set forth in this Section, 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.
5. The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. 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 following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

K. 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:

1. The initial purchase price for a restricted ownership unit shall be approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
2. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
4. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

L. Buyer Income Eligibility.

1. 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 fifty percent (50%) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80%) of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and may be subject to approval by the Court appointed Special Master or the Court, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed thirty-three percent (33%) of the household's eligible monthly income.

M. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section,

and the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety-five percent (95%) of the maximum allowable resale price of the unit, as such price is determined by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

N. Capital Improvements To Ownership Units.

1. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

O. Control Periods for Restricted Rental Units.

1. 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 Section for a period of at least thirty (30) years, until Fair Haven Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. 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 Atlantic. A copy of the filed document shall be provided to the Borough's Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls described in this Section despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit; or

- c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

P. Rent Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
2. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
3. Application fees (including the charge for any credit check) shall not exceed five percent (5%) of the monthly rent of the applicable restricted unit and shall be payable to the Developer and/or Landlord or to the Borough's Administrative Agent appointed by a particular developer. If the fees are paid to the Borough's Administrative Agent or an Administrative Agent appointed by a particular developer they are to be applied to the costs of administering the controls applicable to the unit as set forth in this Section.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

Q. Tenant Income Eligibility.

1. 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:
 - a. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to thirty percent (30%) of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of the regional median household income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80%) of the regional median household income by household size.
2. The Borough's Administrative Agent, or a qualified Administrative Agent appointed by a particular developer, shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five percent (35%)(forty percent (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:
 - a. The household currently pays more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

- c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 2.a. through 2.e. above with the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

R. Municipal Housing Liaison.

1. The position of Municipal Housing Liaison (MHL) for the Borough of Fair Haven is established by this Section. The Borough shall make the actual appointment of the MHL by means of a resolution.
 - a. The MHL must be either a full-time or part-time employee of Fair Haven.
 - b. The person appointed as the MHL must be reported to the Superior Court and thereafter posted on the Borough's website.
 - c. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - d. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Fair Haven, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls;
 - iii. When applicable, supervising any contracting Administrative Agent;
 - iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
2. Subject to the approval of the Superior Court, the Borough of Fair Haven shall designate one (1) or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Section.

S. Administrative Agent.

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Borough or reporting to a specific individual developer, or the municipality itself, through a designated municipal employee, department, board, agency or committee, pursuant to N.J.A.C. 5:80-26.14(c). *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Borough Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Fair Haven and the provisions of N.J.A.C. 5:80-26.15; and
 - b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
2. Household Certification:
 - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
 - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Fair Haven when referring households for certification to affordable units; and
 - g. Notifying the following entities of the availability of affordable housing units in the Borough of Fair Haven: FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the NAACP and the Supportive Housing Association
3. Affordability Controls:
 - a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

- c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or the Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
4. Resales and Re-rentals:
- a. Instituting and maintaining an effective means of communicating information between owners and the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to low- (or very-low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
5. Processing Requests from Unit Owners:
- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;
 - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - c. Notifying the Borough of an owner's intent to sell a restricted unit; and
 - d. Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
- a. Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer;
 - c. Posting annually, in all rental properties (including two (2) family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
 - d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - e. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and

- f. Creating and publishing a written operating manual for each affordable housing program administered by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Borough Council and the Superior Court, setting forth procedures for administering the affordability controls.
7. Additional Responsibilities:
 - a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
 - b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Section. The Borough's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
 - c. The Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements.

1. The Borough of Fair Haven shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
4. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and re-sales and re-rentals. The Borough's Administrative Agent designated by the Borough of Fair Haven, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall provide a list of counseling services to very-low, low-, and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least one hundred and twenty days (120) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal building in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

U. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Borough may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
 - a. The Borough 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 adjudged by the Superior Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one (1) or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than two thousand dollars (\$2,000.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an Owner who has rented a very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Fair Haven Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented a very-low, 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.
 - b. The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - i. The judgment shall be enforceable, at the option of the Borough, 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 Borough, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- ii. 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 Borough 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 Borough in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough 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 Borough for the Owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the Owner shall make a claim with the Borough for such. Failure of the Owner to claim such balance within the two (2) year period shall automatically result in a forfeiture of such balance to the Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.
- iii. Foreclosure by the Borough 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 very-low, 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.
- iv. 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 Borough may acquire title to the very-low, 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 very-low, 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.
- v. Failure of the very-low, low-, and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough, with such offer to purchase being equal to the maximum resale price of the very-low, low-, and moderate-income unit as permitted by the regulations governing affordable housing units.
- vi. 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.

V. Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Section shall be filed in writing with the Superior Court.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Fair Haven are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2020-06**

**AN ORDINANCE ADDING SECTION 15.1 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED
“AFFORDABLE HOUSING MANDATORY SET-ASIDE”**

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 15.1 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Affordable Housing Set-Aside”, under a new article entitled “Section 15 – Affordable Housing Requirements”, is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.1 Affordable Housing Mandatory Set-Aside

A. Purpose

This section is intended to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%). This section shall apply except where inconsistent with applicable law.

B. Affordable Housing Mandatory Set-Aside Requirement

If the Borough or the Borough Planning Board/Zoning Board permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough’s Planning Board/Zoning Board shall require that an appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Planning Board or Zoning Board. For any such development for which the Borough’s land use ordinances already permitted residential development as of the effective the Ordinance creating this section was adopted, this requirement shall only apply if the Borough or the Borough’s Planning Board or Zoning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date the Ordinance created this section was adopted. Nothing in this paragraph precludes the Borough or the Borough’s Planning Board or Zoning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%). This requirement does not create any entitlement for a property owner or applicant for a zoning amendment or variance, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Borough’s Settlement Agreement with FSHC, which was executed by the Borough on February 12, 2020, or in the Borough’s Adopted Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling

units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Fair Haven are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**Borough of Fair Haven
Ordinance No. 2020-07**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF
MONMOUTH AMENDING CHAPTER 30, LAND USE AND DEVELOPMENT REGULATIONS,
AMENDING THE R-5 SINGLE-FAMILY RESIDENTIAL ZONE TO PERMIT AN AFFORDABLE TWO-
FAMILY DWELLING ON A PORTION OF BLOCK 45, LOTS 10 AND 12**

WHEREAS, in March 2019, the Borough Council of the Borough of Fair Haven, Monmouth County, New Jersey (the "Borough") voluntarily petitioned the Court via Declaratory Judgment Action ("DJ Action") for approval of its Housing Element and Fair Share Plan ("HEFSP"), which was also adopted in March of 2019; and

WHEREAS, as a result, the Borough and its Planning Board obtained immunity from builder's remedy and Mount Laurel litigation, while its plan was processed; and

WHEREAS, the Borough Council of the Borough of Fair Haven, Monmouth County, New Jersey, entered into a Settlement Agreement with Fair Share Housing Center (FSHC) on February 12, 2020 that resolves the Borough's DJ Action globally; and

WHEREAS, a Court Order was signed by the Honorable Judge Linda Grasso-Jones on June 5, 2020, that found that the Borough's proposed affordable housing strategy as set forth within the FSHC Settlement Agreement is facially constitutionally compliant and provides a fair and reasonable opportunity for the Borough to meet its obligations under Mount Laurel IV; and

WHEREAS, pursuant to the executed Settlement Agreements and Court Order, the Borough proposes to dedicate a minimum 5,000 square foot portion of a municipally-owned lot at the corner of Hendrickson Place and Allen Street to Habitat for Humanity or another qualified non-profit entity for the purpose of constructing two affordable housing units; and

WHEREAS, in order to permit the construction of two residential units on one minimum 5,000 square foot lot, the Borough desires to amend the standards of the R-5 Zone District as they pertain to Block 45, Lots 10 and 12; and

WHEREAS, this Ordinance implements and incorporates the Borough's executed Settlement Agreement with FSHC, the Court Order, and the New Jersey Fair Housing Act of 1985.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Fair Haven, County of Monmouth as follows:

The Schedule of Permitted Uses as they pertain to the R-5 Zone District is hereby amended as follows:

Section 1. Section 30-5.3 Permitted and Prohibited Uses is hereby amended as follows:

- a. Permitted principal uses, accessory uses, and conditional uses within each zone district are set forth in the schedules of permitted uses. The letter "P" means that the use is a permitted principal use in the zone. The letter "C" means the use is a permitted conditional use. The letter "A" means permitted accessory use in the zone. Any use, except for essential services, which is not specifically listed as a permitted use, an accessory use or a conditional use on the schedule of uses shall be deemed a prohibited use.

a. For a portion of Block 45, Lots 10 and 12 in the R-5 Zone, the only permitted use is a 100% affordable housing development consistent with the following parameters:

i. One (1) two-family dwelling consisting of affordable residential units with a minimum lot area of 5,000 square feet. A two-family dwelling is defined as: A building occupied or intended for occupancy as separate living quarters for no more than two families, with separate access, cooking, sleeping and sanitary facilities for the exclusive use of the occupants of each unit, which units are separated from each other either by vertical walls to the underside of the roof or by horizontal floors.

ii. All bulk, design, and other applicable standards in the R-5 Zone shall apply.

iii. One unit shall be an affordable for-sale family unit and one unit shall be a very low-income rental unit as that term is defined in the Fair Housing Act.

iv. Affordable housing units shall be subject to the standards in the Borough's Affordable Housing Ordinance.

Section 2. This ordinance shall take effect immediately upon final passage and publication thereof according to law.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2020-10**

AN ORDINANCE ADDING SECTION 15.4 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED “DEVELOPMENT FEE ORDINANCE,” WHICH WILL COMPLY WITH CURRENT STATE AFFORDABLE HOUSING REGULATIONS

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 15.4 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Development Fee Ordinance”, under a new section entitled “Section 15 Affordable Housing Requirements,” is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.4 Development Fee Ordinance

A. Purpose

1. In Holmdel Builder’s Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (COAH’s) adoption of rules.
2. 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 a court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
3. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH’s duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court’s jurisdiction and are subject to approval by the Court.
4. This chapter establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this 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 N.J.A.C. 5:93-8.

B. Definitions

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

1. “**Affordable housing development**” means a development included in the Borough’s 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.

2. “**COAH**” or the “**Council**” means the New Jersey Council on Affordable Housing established under the Act.
3. “**Development fee**” means money paid by a developer for the improvement of property as authorized by Holmdel Builder’s Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH regulations.
4. “**Developer**” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
5. “**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).
6. “**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.

C. Residential Development Fees

1. Imposed Fees

- a. Within all zoning districts, residential developers, the developers of all new development of principal and accessory residential buildings, 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.
- b. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of 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 calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

2. Eligible Exactions, Ineligible Exactions, and Exemptions for Residential Development

- a. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- b. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance 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.

- c. 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.
- d. Nonprofit organizations which have received tax exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- e. Federal, state, county and local governments shall be exempted from paying a development fee.
- f. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

D. Non-residential Development Fees

1. Imposed Fees

- a. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 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.
- b. 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.
- c. 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.

2. Eligible Exactions, Ineligible Exactions, and Exemptions for Non-Residential Development

- a. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
- b. The two and one-half percent (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.

- c. 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.
- d. 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.
- e. 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 forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Fair Haven as a lien against the real property of the owner.

E. Collection Procedures

1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Borough’s Land Use Officer responsible for the issuance of a building permit.
2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer in accordance with the instructions in Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments in keeping with the instructions in Form N-RDF.
3. The Land Use Officer responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Land Use Officer responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Borough of Fair Haven fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set

forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

8. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
9. Appeal of development fees
 - a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Fair Haven. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Fair Haven Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

F. Affordable Housing Trust Fund

1. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Borough's Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - a. Payments in lieu of on-site construction of affordable units;
 - b. Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - c. Rental income from municipally operated units;
 - d. Repayments from affordable housing program loans;
 - e. Recapture funds;
 - f. Proceeds from the sale of affordable units; and

- g. Any other funds collected in connection with the Borough of Fair Haven's affordable housing program.
3. In the event of a failure by the Borough of Fair Haven to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Fair Haven, or, if not practicable, then within the County or the Housing Region.
4. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
5. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

G. Use of Funds

1. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Borough of Fair Haven'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 N.J.A.C. 5:93-8 and specified in the approved spending plan.
2. Funds shall not be expended to reimburse the Borough of Fair Haven for past housing activities.
3. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region.
 - a. 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.

- b. Affordability assistance to households earning thirty percent (30%) or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty percent (30%) or less of median income.
 - c. 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.
 4. The Borough of Fair Haven may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:94-7.
 5. No more than twenty percent (20%) of all revenues collected from development fees, 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 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 twenty percent (20%) 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 monitoring requirements for the affordable housing in compliance with the Housing Element and Fair Share Plan. 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.

H. Monitoring

1. On an annual basis commencing with the first anniversary of the entry of the Order granting a Final Judgment of Compliance and Repose The Borough of Fair Haven shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or Local Government Services ("LGS"), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or LGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court.

I. Ongoing Collection of Fees

1. The ability for the Borough of Fair Haven to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless the Borough of Fair Haven has filed an adopted Housing Element and Fair Share Plan with the court or other appropriate jurisdiction, has filed a Declaratory Judgment action and has received court approval of its development fee ordinance. If the Borough of Fair Haven fails to renew its ability to impose and collect development fees prior to the expiration of Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Fair Haven shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Borough of Fair Haven retroactively impose a development fee on such a development. The Borough of Fair

Haven shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Fair Haven are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2020-09**

AN ORDINANCE ADDING SECTION 15.3 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED “ACCESSORY APARTMENTS” TO PERMIT AFFORDABLE ACCESSORY APARTMENTS

NOW, THEREFORE, be it ordained by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 15.3 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Accessory Apartments,” under a new section entitled “Section 15 Affordable Housing Requirements,” is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.3 Accessory Apartments

- A. The following accessory apartment regulations are hereby enacted for the purpose of providing additional opportunities for affordable housing in the Borough. All accessory apartment units shall meet the following conditions:
1. Accessory apartments shall be permitted in the Affordable Housing Overlay Zones.
 2. Accessory apartments shall be defined as stated under the Borough’s Affordable Housing Ordinance.
 3. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to local building codes;
 4. The accessory apartment shall, for a period of at least 10 years from the date of the issuance of the certificate of occupancy for the unit, be rented only to a duly qualified (at the time of initial occupancy) very low-, low- or moderate-income household based upon a rent level calculated to be affordable to such household in accordance with the criteria set forth in the Borough's Affordable Housing Ordinance;
 5. Affordable rent levels for accessory apartments shall be calculated to include a deduction for tenant paid utilities (a utility allowance);
 6. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental in accordance with the foregoing requirements for the entire term of the deed restriction;
 7. Each accessory apartment shall have living/sleeping space, a complete kitchen and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom;
 8. The accessory apartment shall have a separate door with direct access to the outdoors;
 9. The potable water supply and sewage disposal system for the accessory apartment shall be demonstrated to be adequate;
 10. The accessory apartment shall be affirmatively marketed throughout the Borough’s housing region; and
 11. In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this ordinance, all of the requirements of this ordinance shall apply, except that no subsidy shall be provided by the Borough.
- B. The Borough shall designate an Administrative Agent to administer the accessory apartment program.
1. The Administrative Agent shall administer the accessory apartment program including advertising, income qualifying prospective tenants, setting rents and annual rental increases, maintaining a waiting list,

distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the accessory apartment program;

2. The Administrative Agent shall only deny an application for an accessory apartment if the project is not in conformance with all of the requirements of the municipal development ordinance, including this Section, or the Borough's Affordable Housing Ordinance. All denials shall be in writing with the reasons clearly stated; and
3. The Borough shall provide up to \$25,000 to subsidize the physical creation of an accessory apartment conforming to all applicable requirements. Prior to the grant of any subsidy, the property owner shall enter into a written agreement with Fair Haven Borough insuring that (i) the subsidy shall be used only to create the accessory apartment and (ii) the apartment shall meet all applicable requirements of the Borough of Fair Haven.

C. Applications for the creation of an accessory apartment shall be submitted to the Administrative Agent and shall include the following:

1. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and primary dwelling or use within the building;
2. Rough elevations showing the modification of any exterior building façade to which changes are proposed; and
3. A site development sketch showing the location of the existing dwelling and other existing structures; all property lines; proposed addition if any, along with minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect the proposal.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Fair Haven are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-163

TITLE: EXECUTIVE SESSION

WHEREAS, the Open Public Meetings, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body may wish to discuss the following matters:

Litigation

1. Fair Share Housing

Contract Negotiations

1. ILSA with Rumson – Brush Grinding
2. Monmouth County Regional Health Commission #1

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-164

**TITLE: REQUEST PERMISSION FOR THE DEDICATION BY RIDER FOR AN
 AFFORDABLE HOUSING TRUST FUND REQUIRED BY NJSA 40A: 12A-3 ET SEQ.**

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as Dedication by Rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, NJSA 40A:12A-3 et seq. provides for receipt of Affordable Housing Trust Funds by the municipality to provide for the operating costs to administer this act; and

WHEREAS, NJSA 40A:4-39 provides the dedicated revenues anticipated from Affordable Housing monies are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey as follows:

1. The Mayor and Council do hereby request permission of the Director of the Division of Local Government Services to pay expenditures of the Affordable Housing Trust Fund as per NJSA 40A:12A-3 et seq.
2. The Municipal Clerk of the Borough of Fair Haven, County of Monmouth is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-165

**TITLE: ENDORSEMENT OF THE HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED
 BY THE FAIR HAVEN PLANNING BOARD**

WHEREAS, on or about March 19, 2020, the Borough of Fair Haven (“Borough”) filed a declaratory action (“Action”) with the Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its obligation to create the realistic opportunity to meet its “fair share” of the regional need for low- and moderate-income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, the Borough simultaneously pursued, and ultimately secured, a protective order providing Fair Haven immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

WHEREAS, the Borough engaged in negotiations with the Fair Share Housing Center (“FSHC”) and executed a settlement agreement with FSHC on February 12, 2020; and

WHEREAS, M&M Realty Partners at Fair Haven, LLC (“M&M”) is an interest party in the Borough’s Action and on February 12, 2020 the Borough executed a settlement agreement with M&M; and

WHEREAS, a Fairness Hearing was held on June 18, 2018, at which time the settlement agreement was approved, and said approval was later memorialized in an Order dated June 4, 2020; and

WHEREAS, in accordance with the terms of the settlement agreements, the Borough’s planner, Heyer, Gruel & Associates, prepared a Housing Element and Fair Share Plan; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:44D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on September 22, 2020 and adopted the Housing Element and Fair Share Plan on the same day; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element and Fair Share Plan is attached hereto as Exhibit A; and

WHEREAS, the Governing Body of the Borough of Fair Haven wishes to endorse the Housing Element and Fair Share Plan and seeks approval of the Housing Element and Fair Share Plan from the Court.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey:

1. That it hereby endorses the Housing Element and Fair Share Plan, as adopted by the Fair Haven Borough Planning Board on September 22, 2020 via the Planning Board resolution, attached hereto as Exhibit A.
2. That it authorizes and directs its professionals to file with the Court (i) the Housing Element and Fair Share Plan, (ii) the resolutions of the Planning Board adopting and the Borough Council endorsing the Housing Element and Fair Share Plan, and (iii) any additional documents the professionals deem necessary or desirable.
3. That it authorizes its professionals to seek Court approval of the Housing Element and Fair Share Plan at a properly noticed Compliance Hearing.
4. That it reserves the right to amend the Housing Element and Fair Share Plan, should that be necessary.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-166

**TITLE: APPOINT HEYER, GRUEL & ASSOCIATES AS THE ADMINISTRATIVE AGENT
 FOR THE BOROUGH OF FAIR HAVEN**

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., the Borough of Fair Haven is implementing a program to provide affordable housing units to low- and moderate-income households within the Borough; and

WHEREAS, the Borough's Affordable Housing Ordinance, found in Chapter 30 Section 15 of the Borough's Code, sets forth the duties of the administrative agent pursuant to N.J.A.C. 5:80-26 et. seq., that requires the affordability controls of affordable housing units be administered by an administrative agent acting on behalf of a municipality; and

WHEREAS, the Borough of Fair Haven has selected Heyer, Gruel & Associates, who has professional staff who have obtained the necessary training and certification, to be the administrative agent for the purposes of providing affordability control services for all affordable housing within the Borough.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of Fair Haven Borough, County of Monmouth, State of New Jersey that Heyer, Gruel & Associates is hereby appointed by the Governing Body of the Borough of Fair Haven as the Administrative Agent for the Borough's housing programs.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-167

TITLE: RESOLUTION OF THE BOROUGH OF THE BOROUGH OF FAIR HAVEN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY APPOINTING JOSEPH MULE AS THE MUNICIPAL HOUSING LIAISON FOR THE BOROUGH OF FAIR HAVEN

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., the Borough of Fair Haven is implementing a program to provide affordable housing units to low- and moderate-income households within the Borough; and

WHEREAS, the Borough's Affordable Housing Ordinance sets forth the duties of the Municipal Housing Liaison in which the Municipal Housing Liaison is required to oversee the Borough's affordable housing programs; and

WHEREAS, pursuant to N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq., Fair Haven is required to appoint a Municipal Housing Liaison for administration of Union's Affordable Housing Program to enforce the requirements of N.J.A.C 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey that Joseph Mule is hereby appointed by the Governing Body of the Borough of Fair Haven as the Municipal Housing Liaison for the administration of the affordability controls of the Borough's housing program.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-168

**TITLE: ADOPT THE ‘AFFIRMATIVE MARKETING PLAN’
FOR THE BOROUGH OF FAIR HAVEN**

WHEREAS, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, et seq., the Borough of Fair Haven is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the rehabilitation of rental housing units within the Borough of Fair Haven, are affirmatively marketed to low and moderate-income households, particularly those households living and/or working within Housing Region 4, the COAH Housing Region encompassing the Borough of Fair Haven.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

- A. All affordable housing units in the Borough of Fair Haven shall be marketed in accordance with the provisions herein.
- B. This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low, low and moderate-income units, including those that are part of the Borough’s prior round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan. To the extent any rehabilitation program is implemented, this Affirmative Marketing Plan shall also apply to any rehabilitated rental units that are vacated and re-rented during the applicable period of controls for rehabilitated rental units.
- C. The Affirmative Marketing Plan shall be implemented by one or more Administrative Agent(s) designated by and/or under contract to the Borough of Fair Haven. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.
- D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Borough of Fair Haven, shall undertake, at the minimum, all of the following strategies:
 - 1. Publication of an advertisement in one or more newspapers of general circulation within the housing region.
 - 2. Broadcasting of an advertisement by a radio or television station broadcasting throughout the housing region.

3. At least one additional regional marketing strategy using one of the other sources listed below.
- E. 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 or sponsor 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 the COAH Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Fair Haven is located in COAH Housing Region 4, consisting of Monmouth, Mercer, and Ocean Counties.
- F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:
1. All newspaper articles, announcements and requests for applications for very low, low and moderate income units shall appear in the Star Ledger and the Asbury Park Press.
 2. The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
 3. The advertisement shall include a description of the:
 - a. Location of the units;
 - b. Directions to the units;
 - c. Range of prices for the units;
 - d. Size, as measured in bedrooms, of units;
 - e. Maximum income permitted to qualify for the units;
 - f. Location of applications;
 - g. Business hours when interested households may obtain an application; and
 - h. Application fees.
 4. Newspaper articles, announcements and information on where to request applications for very low, low, and moderate-income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented newspapers serving the housing region, one of which shall be circulated primarily in Monmouth County and the other two of which shall be circulated primarily outside of Monmouth County but within the housing region.
 5. The developer must provide satisfactory proof of public dissemination. See "Attachment A," *Affirmative Fair Housing Marketing Plan for Affordable Housing Region 4* (attached to and hereby made part of this Resolution).

G. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

1. Fair Haven Borough Hall
2. Fair Haven Borough Web Site
3. Developer's Sales/Rental Offices
4. Monmouth County Department of Human Services
5. Mercer County Department of Housing and Community Development
6. Ocean County Department of Planning
7. Monmouth County Library (all branches)
9. Mercer County Library (all branches)
10. Ocean County Library (all branches)

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office and multiple copies of application forms shall be mailed to Fair Share Housing Center Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP for dissemination to their respective constituents.

H. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Monmouth, Mercer, and Ocean Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Part III, Marketing, Section 3d of COAH's *Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 4* (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP.

1. Quarterly informational flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:
 - Monmouth County Board of Realtors
 - Mercer County Board of Realtors
 - Ocean County Board of Realtors
2. Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of Monmouth, Mercer, and Ocean:
 - Welfare or Social Service Board (via the Director)
 - Rental Assistance Office (local office of DCA)
 - Office on Aging
 - Housing Authority (municipal or county)

Community Action Agencies
Community Development Departments

3. Quarterly informational circulars and applications shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Part III, Marketing, Section 3d.
 4. In addition, specific notification of the availability of affordable housing units in Fair Haven (along with copies of the application form) shall be provided to the following entities: Fair Share Housing Center Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP
- J. A random selection method to select occupants of very low, low and moderate income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (l). The Affirmative Marketing Plan shall provide a regional preference for very low-, low- and moderate-income households that live and/or work in COAH Housing Region 4, comprised of Monmouth, Mercer and Ocean Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low, low and moderate income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Borough prior to the affirmative marketing of the units.
- J. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very low, low, and moderate-income households; to place income eligible households in very low, low, and moderate-income units upon initial occupancy; to provide for the initial occupancy of very low, low, and moderate-income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low, low, and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26.1, *et seq.*
- K. The Administrative Agent shall provide or direct qualified very low, low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- L. All developers/owners of very low, low, and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
- M. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low, low, and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- N. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26.1, *et seq.*
- O. In addition to the requirements found herein, the affirmative marketing of all affordable units shall be consistent with the Fair Housing Act, including the recently adopted amendment found at N.J.S.A. 52:27D-321.3 and 321.4.

Attachment A

**AFFIRMATIVE FAIR HOUSING MARKETING PLAN
For Affordable Housing in (REGION 4)**

I. APPLICANT AND PROJECT INFORMATION

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

| | | | |
|---|--------------------------------|--|--|
| 1a. Administrative Agent Name, Address, Phone Number | | 1b. Development or Program Name, Address | |
| 1c. Number of Affordable Units: | 1d. Price or Rental Range | | 1e. State and Federal Funding Sources (if any) |
| Number of Rental Units: | From | | |
| Number of For-Sale Units: | To | | |
| 1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted | 1g. Approximate Starting Dates | | |
| | Advertising: | | Occupancy: |
| 1h. County Mercer, Monmouth, Ocean | | 1i. Census Tract(s): | |
| 1j. Managing/Sales Agent's Name, Address, Phone Number | | | |
| 1k. Application Fees (if any): | | | |

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

| |
|--|
| 2. Describe the random selection process that will be used once applications are received. |
|--|

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)

- White (non-Hispanic)
 Black (non-Hispanic)
 Hispanic
 American Indian or Alaskan Native
 Asian or Pacific Islander
 Other group:

3b. **HOUSING RESOURCE CENTER** (www.njhousing.gov) A free, online listing of affordable housing pursuant to N.J.S.A. 52:27D-321.3 and 321.4

3c. Commercial Media (required) (Check all that applies)

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL NEWSPAPER(S) | CIRCULATION AREA |
|---|----------------------------------|--------------------------------|-----------------------------|
| TARGETS PARTIAL HOUSING REGION 4 | | | |
| Daily Newspaper | | | |
| <input type="checkbox"/> | | Trenton Times | Mercer |
| <input type="checkbox"/> | | Trentonian | Mercer |
| <input type="checkbox"/> | | Asbury Park Press | Monmouth, Ocean |
| <input type="checkbox"/> | | Ocean County Observer | Ocean |
| Weekly Newspaper | | | |
| <input type="checkbox"/> | | Ewing Observer | Mercer |
| <input type="checkbox"/> | | Hopewell Valley News | Mercer |
| <input type="checkbox"/> | | Lawrence Ledger | Mercer |
| <input type="checkbox"/> | | Pennington Post | Mercer |
| <input type="checkbox"/> | | Princeton Town Topics | Mercer |
| <input type="checkbox"/> | | Tempo Mercer | Mercer |
| <input type="checkbox"/> | | Trenton Downtowner | Mercer |
| <input type="checkbox"/> | | Windsor Heights Herald | Mercer |
| <input type="checkbox"/> | | West Windsor-Plainsboro News | Mercer, Middlesex |
| <input type="checkbox"/> | | Princeton Packet | Mercer, Middlesex, Somerset |
| <input type="checkbox"/> | | Messenger-Press | Mercer, Monmouth, Ocean |
| <input type="checkbox"/> | | Woodbridge Sentinel | Middlesex |
| <input type="checkbox"/> | | Atlanticville | Monmouth |

| | | | |
|--------------------------|--|---------------------------|-----------------|
| <input type="checkbox"/> | | Coaster | Monmouth |
| <input type="checkbox"/> | | Courier | Monmouth |
| <input type="checkbox"/> | | Examiner | Monmouth |
| <input type="checkbox"/> | | Hub, The | Monmouth |
| <input type="checkbox"/> | | Independent, The | Monmouth |
| <input type="checkbox"/> | | News Transcript | Monmouth |
| <input type="checkbox"/> | | Two River Times | Monmouth |
| <input type="checkbox"/> | | Coast Star, The | Monmouth, Ocean |
| <input type="checkbox"/> | | Beach Haven Times | Ocean |
| <input type="checkbox"/> | | Beacon, The | Ocean |
| <input type="checkbox"/> | | Berkeley Times | Ocean |
| <input type="checkbox"/> | | Brick Bulletin | Ocean |
| <input type="checkbox"/> | | Brick Times | Ocean |
| <input type="checkbox"/> | | Jackson Times | Ocean |
| <input type="checkbox"/> | | Lacey Beacon | Ocean |
| <input type="checkbox"/> | | Manchester Times | Ocean |
| <input type="checkbox"/> | | New Egypt Press | Ocean |
| <input type="checkbox"/> | | Ocean County Journal | Ocean |
| <input type="checkbox"/> | | Ocean Star, The | Ocean |
| <input type="checkbox"/> | | Tri-Town News | Ocean |
| <input type="checkbox"/> | | Tuckerton Beacon | Ocean |
| <input type="checkbox"/> | | Atlantic Highlands Herald | Monmouth |

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL TV STATION(S) | CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|----------------------------------|--|--|
| TARGETS ENTIRE HOUSING REGION 4 | | | |
| <input type="checkbox"/> | | 2 WCBS-TV CBS Broadcasting Inc. | |
| <input type="checkbox"/> | | 4 WNBC NBC Telemundo License Co. (General Electric) | |
| <input type="checkbox"/> | | 5 WNYW Fox Television Stations, Inc. (News Corp.) | |
| <input type="checkbox"/> | | 7 WABC-TV American Broadcasting Companies, Inc (Walt Disney) | |
| <input type="checkbox"/> | | 9 WWOR-TV Fox Television Stations, Inc. (News Corp.) | |
| <input type="checkbox"/> | | 10 WCAU NBC Telemundo License Co. (General Electric) | |

| | | | |
|--------------------------|--|---|--|
| <input type="checkbox"/> | | 11 WPIX WPIX, Inc. (Tribune) | |
| <input type="checkbox"/> | | 13 WNET Educational Broadcasting Corporation | |
| <input type="checkbox"/> | | 58 WNJB New Jersey Public Broadcasting Authority | |

TARGETS PARTIAL HOUSING REGION 4

| | | | |
|--------------------------|--|---|------------------|
| <input type="checkbox"/> | | 25 W25AW WZBN TV, Inc. | Mercer |
| <input type="checkbox"/> | | 39 WLVT-TV Lehigh Valley Public Telecommunications Corp. | Mercer |
| <input type="checkbox"/> | | 60 WBPH-TV Sonshine Family Television Corp | Mercer |
| <input type="checkbox"/> | | 63 WMBC-TV Mountain Broadcasting Corp. | Mercer |
| <input type="checkbox"/> | | 69 WFMZ-TV Maranatha Broadcasting Company, Inc. | Mercer |
| <input type="checkbox"/> | | 41 WXTV WXTV License Partnership, G.P. (Univision Communications Inc.) | Mercer, Monmouth |
| <input type="checkbox"/> | | 3 KYW-TV CBS Broadcasting Inc. | Mercer, Ocean |
| <input type="checkbox"/> | | 6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney) | Mercer, Ocean |
| <input type="checkbox"/> | | 12 WHYI-TV WHYY, Inc. | Mercer, Ocean |
| <input type="checkbox"/> | | 17 WPHL-TV Tribune Company | Mercer, Ocean |
| <input type="checkbox"/> | | 23 WNJS New Jersey Public Broadcasting Authority | Mercer, Ocean |
| <input type="checkbox"/> | | 29 WTXF-TV Fox Television Stations, Inc. (News Corp.) | Mercer, Ocean |
| <input type="checkbox"/> | | 35 WYBE Independence Public Media Of Philadelphia, Inc. | Mercer, Ocean |
| <input type="checkbox"/> | | 48 WGTW-TV Trinity Broadcasting Network | Mercer, Ocean |
| <input type="checkbox"/> | | 52 WNJT New Jersey Public Broadcasting Authority | Mercer, Ocean |
| <input type="checkbox"/> | | 57 WPSG CBS Broadcasting Inc. | Mercer, Ocean |
| <input type="checkbox"/> | | 61 WPPX Paxson Communications License Company, LLC | Mercer, Ocean |
| <input type="checkbox"/> | | 65 WUVP-TV Univision Communications, Inc. | Mercer, Ocean |
| <input type="checkbox"/> | | 25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications | Monmouth |
| <input type="checkbox"/> | | 31 WPXN-TV Paxson Communications License Company, LLC | Monmouth |
| <input type="checkbox"/> | | 47 WNJU NBC Telemundo License Co. (General Electric) | Monmouth |
| <input type="checkbox"/> | | 50 WNJN | Monmouth |

| | | | |
|--------------------------|--|---|------------------------------|
| | | New Jersey Public Broadcasting Authority | |
| <input type="checkbox"/> | | 68 WFUT-TV Univision New York LLC | Monmouth, Ocean (Spanish) |
| <input type="checkbox"/> | | 62 WWSI Hispanic Broadcasters of Philadelphia, LLC | Ocean |

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF CABLE PROVIDER(S) | BROADCAST AREA |
|---|----------------------------------|--|--------------------------|
| TARGETS PARTIAL HOUSING REGION 4 | | | |
| <input type="checkbox"/> | | Cablevision of Hamilton | Partial Mercer, Monmouth |
| <input type="checkbox"/> | | Comcast of Central NJ, | Partial Mercer, Monmouth |
| <input type="checkbox"/> | | Patriot Media & Communications, CNJ | Partial Mercer |
| <input type="checkbox"/> | | Cablevision of Monmouth, Raritan Valley | Partial Monmouth |
| <input type="checkbox"/> | | Comcast of Mercer County, Southeast Pennsylvania | Partial Middlesex |
| <input type="checkbox"/> | | Comcast of Monmouth County | Partial Monmouth, Ocean |
| <input type="checkbox"/> | | Comcast of Garden State, Long Beach Island, Ocean County, Toms River | Partial Ocean |

| | DURATION & FREQUENCY OF OUTREACH | NAMES OF REGIONAL RADIO STATION(S) | BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|----------------------------------|------------------------------------|--|
| TARGETS ENTIRE HOUSING REGION 4 | | | |
| AM | | | |
| <input type="checkbox"/> | | WWJZ 640 | |
| <input type="checkbox"/> | | WOR 710 | |
| <input type="checkbox"/> | | WABC 770 | |
| <input type="checkbox"/> | | WCBS 880 | |
| <input type="checkbox"/> | | WBBR 1130 | |
| <input type="checkbox"/> | | WPST 94.5 | |
| FM | | | |
| <input type="checkbox"/> | | WKXW-FM 101.5 | |
| <input type="checkbox"/> | | WPRB 103.3 | |

| | | | |
|---|--|----------|------------------|
| TARGETS PARTIAL HOUSING REGION 4 | | | |
| AM | | | |
| <input type="checkbox"/> | | WFIL 560 | Mercer, Monmouth |
| <input type="checkbox"/> | | WMCA 570 | Monmouth, Ocean |
| <input type="checkbox"/> | | WFAN 660 | Mercer, Monmouth |
| <input type="checkbox"/> | | WNYC 820 | Mercer, Monmouth |
| <input type="checkbox"/> | | WWBD 860 | Mercer |
| <input type="checkbox"/> | | WPHY 920 | Mercer |

| | | | |
|--------------------------|--|--------------|------------------|
| <input type="checkbox"/> | | WNTP 990 | Mercer |
| <input type="checkbox"/> | | WCHR 1040 | Mercer |
| <input type="checkbox"/> | | WOBM 1160 | Monmouth, Ocean |
| <input type="checkbox"/> | | WWTR 1170 | Mercer |
| <input type="checkbox"/> | | WPHT 1210 | Mercer, Monmouth |
| <input type="checkbox"/> | | WBUD 1260 | Mercer, Monmouth |
| <input type="checkbox"/> | | WIMG 1300 | Mercer |
| <input type="checkbox"/> | | WADB 1310 | Monmouth, Ocean |
| <input type="checkbox"/> | | WHTG 1410 | Monmouth |
| <input type="checkbox"/> | | WCTC 1450 | Mercer, Monmouth |
| <input type="checkbox"/> | | WBCB 1490 | Mercer |
| <input type="checkbox"/> | | WTTM 1680 | Mercer, Monmouth |
| FM | | | |
| <input type="checkbox"/> | | WNJT-FM 88.1 | Mercer |
| <input type="checkbox"/> | | WWFM 89.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WRDR 89.7 | Monmouth, Ocean |
| <input type="checkbox"/> | | WRTI 90.1 | Mercer |
| <input type="checkbox"/> | | WBJB-FM 90.5 | Monmouth |
| <input type="checkbox"/> | | WWNJ 91.1 | Ocean |
| <input type="checkbox"/> | | WTSR 91.3 | Mercer |
| <input type="checkbox"/> | | WBGD 91.9 | Ocean |
| <input type="checkbox"/> | | WFNY-FM 92.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WXTU 92.5 | Mercer |
| <input type="checkbox"/> | | WOBM-FM 92.7 | Ocean |
| <input type="checkbox"/> | | WPAT-FM 93.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WMMR 93.3 | Mercer |
| <input type="checkbox"/> | | WNYC-FM 93.9 | Mercer, Monmouth |
| <input type="checkbox"/> | | WYSP 94.1 | Mercer |
| <input type="checkbox"/> | | WJLK-FM 94.3 | Monmouth, Ocean |
| <input type="checkbox"/> | | WFME 94.7 | Mercer, Monmouth |
| <input type="checkbox"/> | | WZZO 95.1 | Mercer |
| <input type="checkbox"/> | | WPLJ 95.5 | Mercer, Monmouth |
| <input type="checkbox"/> | | WBEN-FM 95.7 | Mercer |
| <input type="checkbox"/> | | WRAT 95.9 | Monmouth, Ocean |

| | | | |
|--------------------------|--|---------------|------------------|
| <input type="checkbox"/> | | WCTO 96.1 | Mercer |
| <input type="checkbox"/> | | WQXR-FM 96.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WRDW-FM 96.5 | Mercer |
| <input type="checkbox"/> | | WQHT 97.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WSKQ-FM 97.9 | Mercer, Monmouth |
| <input type="checkbox"/> | | WOGL 98.1 | Mercer |
| <input type="checkbox"/> | | WMGQ 98.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WRKS 98.7 | Mercer, Monmouth |
| <input type="checkbox"/> | | WUSL 98.9 | Mercer, Monmouth |
| <input type="checkbox"/> | | WAWZ 99.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WBAI 99.5 | Mercer, Monmouth |
| <input type="checkbox"/> | | WJRZ-FM 100.1 | Ocean |
| <input type="checkbox"/> | | WHTZ 100.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WCBS-FM 101.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WQCD 101.9 | Mercer, Monmouth |
| <input type="checkbox"/> | | WIOQ 102.1 | Mercer |
| <input type="checkbox"/> | | WNEW 102.7 | Mercer, Monmouth |
| <input type="checkbox"/> | | WMGK 102.9 | Mercer |
| <input type="checkbox"/> | | WKTU 103.5 | Mercer, Monmouth |
| <input type="checkbox"/> | | WAXQ 104.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WWPR-FM 105.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WDAS-FM 105.3 | Mercer, Monmouth |
| <input type="checkbox"/> | | WCHR-FM 105.7 | Ocean |
| <input type="checkbox"/> | | WJJZ 106.1 | Mercer, Monmouth |
| <input type="checkbox"/> | | WHTG-FM 106.3 | Monmouth, Ocean |
| <input type="checkbox"/> | | WLTW 106.7 | Mercer, Monmouth |
| <input type="checkbox"/> | | WKDN 106.9 | Mercer |
| <input type="checkbox"/> | | WWZY 107.1 | Monmouth, Ocean |
| <input type="checkbox"/> | | WBLS 107.5 | Mercer, Monmouth |
| <input type="checkbox"/> | | WWPH 107.9 | Mercer |

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters)
(Check all that applies)

| | NAME OF PUBLICATIONS | OUTREACH AREA | RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE |
|--|----------------------|---------------|--|
| | | | |

| TARGETS ENTIRE HOUSING REGION 4 | | | | |
|---|--|---|---------------------------------|---|
| Weekly | | | | |
| | | Nuestra Comunidad | Central/South Jersey | Spanish-Language |
| | | | | |
| TARGETS PARTIAL HOUSING REGION 4 | | | | |
| Weekly | | | | |
| <input type="checkbox"/> | | New Jersey Jewish News | Northern and Central New Jersey | Jewish |
| <input type="checkbox"/> | | El Hispano | Camden and Trenton areas | Spanish-Language |
| <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 |
| | | | | |
| Mercer County | | | | |
| <input type="checkbox"/> | | Mercer County Board of Education | | 1075 Old Trenton Rd, Trenton, NJ |
| <input type="checkbox"/> | | Medical Center at Princeton | | 253 Witherspoon St, Princeton, NJ |
| <input type="checkbox"/> | | Bristol-Myers Squibb | | 100 Nassau Park Blvd, Princeton, NJ and 820 Bear Tavern Rd, Trenton, NJ |
| <input type="checkbox"/> | | St. Lawrence Rehabilitation Center | | 2381 Lawrenceville Rd, Lawrenceville, NJ |
| <input type="checkbox"/> | | McGraw-Hill | | 120 Windsor Center Dr, East Windsor, NJ |
| <input type="checkbox"/> | | Conair Corporation | | 150 Milford Rd, Hightstown, NJ |
| <input type="checkbox"/> | | Shiseido America, Inc. | | 366 Princeton Hightstown Rd, East Windsor, NJ |
| <input type="checkbox"/> | | NJ Manufacturers Insurance Company | | 1001 Grand St S, Hammonton, NJ |
| <input type="checkbox"/> | | Homasote | | 932 Lower Ferry Rd, Trenton, NJ |
| <input type="checkbox"/> | | Robert Wood Johnson University Hospital | | 1 Hamilton Health Pl, Trenton, NJ |
| <input type="checkbox"/> | | Congoleum Corp. | | 3500 Quakerbridge Rd, Mercerville, NJ |
| <input type="checkbox"/> | | Coca-Cola Foods | | 480 Mercer St, Hightstown, NJ |
| <input type="checkbox"/> | | Peddie School | | 111 Armellino Ct, Hightstown, NJ |
| <input type="checkbox"/> | | Dana Communications | | 2 E Broad St, Hopewell, NJ |
| <input type="checkbox"/> | | Merrill Lynch | | 410 Scotch Rd, Hopewell, NJ |
| <input type="checkbox"/> | | Janssen Pharmaceutical | | 1125 Trenton Harbourton Rd, Titusville, NJ |
| <input type="checkbox"/> | | St. Francis Medical Center | | 601 Hamilton Avenue Trenton NJ 08629-1986 |
| <input type="checkbox"/> | | The Trenton Times | | 500 Perry St, Trenton, NJ |
| <input type="checkbox"/> | | Gaum. Inc. | | 1080 US Highway 130, Robbinsville, NJ |
| | | | | |
| Monmouth County | | | | |
| <input type="checkbox"/> | | Meridian Health System | | 1350 Campus Parkway Neptune |

| | | | |
|--------------------------|--|--|---|
| <input type="checkbox"/> | | US Army Communications Electronics Command Fort Monmouth | CECOM Bldg 901 Murphy drive Fort Monmouth |
| <input type="checkbox"/> | | County of Monmouth Hall of Records | 1 East Main Street Freehold |
| <input type="checkbox"/> | | Central State Healthcare Systems | West Main Street Freehold |
| <input type="checkbox"/> | | Monmouth Medical Center | 300 Second Ave Long Branch |
| <input type="checkbox"/> | | Asbury Park Press | 3601 Route 66 Neptune, NJ |
| <input type="checkbox"/> | | Food Circus Super Markets, Inc. | 835 Highway 35 PO BOX 278 Middletown, NJ |
| <input type="checkbox"/> | | Monmouth University | Cedar Ave West Long Branch |
| <input type="checkbox"/> | | Naval Weapons stations Earle | State Highway 34 Colts Neck, NJ |
| <input type="checkbox"/> | | Norkus Enterprises, Inc. | 505 Richmond Ave Point Pleasant, NJ |
| <input type="checkbox"/> | | Horizon Blue Cross Blue Shield | 1427 Wyckoff Road Farmingdale, NJ |

| | | | |
|--------------------------|--|-----------------------------------|--|
| Ocean County | | | |
| <input type="checkbox"/> | | Saint Barnabas Health Care System | 300 2nd Ave Long Branch, NJ 07740 |
| <input type="checkbox"/> | | Six Flags Theme Parks Inc | Route 537 Jackson, NJ 08527 |
| <input type="checkbox"/> | | Meridian Health Care System | 415 Jack Martin Blvd, Brick, NJ |
| <input type="checkbox"/> | | Southern Ocean County Hospital | 1140 Route 72 West, Manahawkin, NJ |
| <input type="checkbox"/> | | Jenkinsons | 300 Ocean Ave Pt. Pleasant Beach, NJ 08742 |

| | | | |
|--|---------------|--|----------------------------------|
| 3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) | | | |
| Name of Group/Organization | Outreach Area | Racial/Ethnic Identification of Readers/Audience | Duration & Frequency of Outreach |
| | | | |
| | | | |
| | | | |

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) | |
| <input type="checkbox"/> | BUILDING Mercer County Library Headquarters |
| <input type="checkbox"/> | LOCATION 2751 Brunswick Pike, Lawrenceville, NJ 08648 |
| <input type="checkbox"/> | Monmouth County Headquarters Library |
| <input type="checkbox"/> | 125 Symmes Drive, Manalapan, NJ 07726 |
| <input type="checkbox"/> | Ocean County Library |
| <input type="checkbox"/> | 101 Washington Street, Toms River, NJ 08753 |
| 4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person) | |
| | |
| 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 the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).

Name (Type or Print)

Title/Municipality

Signature

Date

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-169

**TITLE: APPROVE APPROPRIATION OF FUNDS OR BOND IN THE EVENT OF A
SHORTFALL IN FUNDING FOR THE BOROUGH’S AFFORDABLE HOUSING
PROGRAMS**

WHEREAS, on or about March 19, 2020, the Borough of Fair Haven filed a Declaratory Judgment Complaint in Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, the Borough simultaneously pursued, and ultimately secured, a protective order providing New Providence immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

WHEREAS, the Borough adopted a Housing Element and Fair Share Plan on or about September 15, 2020; and

WHEREAS, the Borough has prepared a Spending Plan consistent with P.L.2008, c.46 COAH regulations; and

WHEREAS, in the event funding sources as identified in the proposed Spending Plan prove inadequate to complete the affordable housing programs included in the Borough’s Housing Element and Fair Share Plan and any future amendments thereof, and to the extent permitted by law, the Borough shall provide sufficient funding to address any shortfalls.

NOW THEREFORE BE IT RESOLVED, the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey that to the extent permitted by law, do hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

BE IT FURTHER RESOLVED that, the Borough agrees to appropriate funds or authorize the issuance of debt within 90 days of written notification by the Council on Affordable Housing or a court of competent jurisdiction; and

BE IT FURTHER RESOLVED that the Borough may repay debt through future collections of development fees, as such funds become available.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-170

TITLE: APPOINTMENT OF PART-TIME SCHOOL CROSSING GUARD, SCOTT W. BEATTIE

WHEREAS, a vacancy exists in the Fair Haven Police Department for the position of part-time School Crossing Guard; and

WHEREAS, Chief Joseph McGovern has recommended the vacancy be filled by Scott W. Beattie who meets all of the required qualifications.

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that Scott W. Beattie is hereby appointed as a part-time School Crossing Guard with an hourly salary of \$15.25 effective September 29, 2020.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-171

TITLE: PURCHASE AUTHORIZATION FOR CAPITAL ITEM EXPENDITURES

WHEREAS, Ordinance No. 2017-06 was adopted on May 22, 2017 and provides for the acquisition of various equipment, infrastructure improvements and improvements to public buildings and grounds; and

WHEREAS, the Department of Public Works has submitted Capital Item requests as follows:

POLICE DEPARTMENT/COMMUNITY CENTER

| | |
|---|-------------|
| Commercial Series Standby Generator, Liquor Cooled, RG Series | \$27,225.00 |
|---|-------------|

| | |
|--------------|--------------------|
| Total | \$27,225.00 |
|--------------|--------------------|

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the above capital item expenditures are hereby approved.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-172

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the September 28, 2020 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

| | |
|----------------------|----------------------|
| 2020 CURRENT ACCOUNT | \$ 160,533.35 |
| 2019 CURRENT ACCOUNT | \$ 585.75 |
| GRANT FUND | \$ 1,203.26 |
| OTHER TRUST | \$ 37,654.43 |
| TOTAL | \$ 199,976.79 |

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-173

TITLE: AUTHORIZING AND ADOPTING THE ‘FOR SALE OPERATING MANUAL,’ THE ‘RENTAL OPERATING MANUAL,’ AND THE ‘ACCESSORY APARTMENT OPERATING MANUAL’

WHEREAS, on or about March 19, 2020, the Borough of Fair Haven filed a Declaratory Judgment Complaint in Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, in accordance with the Fair Housing Act and the New Jersey uniform Housing affordability Controls (N.J.A.C. 5:80-26-1, et seq.), the Borough of Fair Haven is required to adopt all program operating manuals, which set forth the procedures for administering the programs and their associated affordability controls for affordable housing units created within the Borough of Fair Haven; and

WHEREAS, the Borough of Fair Haven have created operating manuals for three affordable housing programs: For-Sale Operating Manual; Rental Operating Manual, and the Accessory Apartment Operating Manual, a copy of each of which is incorporated herein as if set forth at length.

NOW THEREFORE BE IT RESOLVED, the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey that the Borough does hereby authorize and adopt the following three operating manuals:

1. For-Sale Operating Manual
2. Rental Operating Manual
3. Accessory Apartment Program Operating Manual

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-174

TITLE: APPROVE THE AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, on February 12, 2020 the Borough of Fair Haven executed a settlement agreement with Fair Share Housing Center (“FSHC”), which established the Borough’s fair share obligation and preliminarily approved the Borough’s compliance mechanisms in accordance with the March 10, 2015 decision of the Supreme Court, which transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing (“COAH”) to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, pursuant to the settlement agreement with FSHC, the Borough must implement a Spending Plan in accordance with N.J.A.C. 5:93-5.1, et. seq.; and

WHEREAS, the Borough prepared a Spending Plan consistent with P.L.2008, c.46 COAH regulations and the settlement agreements entered into between the Borough and FSHC; and

WHEREAS, the Borough desires to submit its Spending Plan to the Court in connection with the Compliance Action for its review and approval.

NOW THEREFORE BE IT RESOLVED, the by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey:

1. That it hereby approves the Amended Spending Plan that is attached hereto as Exhibit A; and
2. That it authorizes its professionals to seek Court approval of the Spending Plan.