LINCOLN PARK GOVERNING BODY
WORK MEETING
MARCH 2, 2026 - 7:00 PM
COUNCIL CHAMBERS - 34 CHAPEL HILL ROAD

I. CALL TO ORDER:

II. PLEDGE OF ALLEGIANCE/ROLL CALL

III. MAYOR'S AGENDA:

1. Request Resolutions Authorizing Escrow Releases (#2645, #2601)
2. Request Resolution Authorizing Tax Collector to Make Overpayment Refunds
3. Request Resolution Authorizing Tax Collector to Make Tax Adjustments
4 Request Introduction of Ordinance to Accept Donation of Real Property
5. Request Resolution Authorizing Treasurer to Issue Check for the Redemption of Tax Sale Certificates
6. Request Resolution Endorsing Amended Housing Element and Fair Share Plan
7. Request Resolution Authorizing Adoption of Affordable Housing Fourth Round Spending Plan
8. Request Resolution Authorizing Adoption of Affirmative Marketing Plan
9. Request Resolution Authorizing Contract for Geese Clearing Services
10. Request Resolution Authorizing Shared Services Agreement with Mahwah Township
11. Request Resolution Authorizing Sale of Surplus Property no Longer Needed for Public Use
12. Request Resolution Authorizing 2026 Morris County Community Development Grant Program Application
13. Request Resolution Supporting Civil Rights Act of 1968
14. Request Resolution Authorizing Renewing Shared Services Agreement with Pequannock
15. Request Resolution Authorizing Renewing Shared Services Agreement with Pequannock

IV. RESOLUTIONS:

R26-104 Resolution Endorsing the Amended Housing Element and Fair Share Plan
R26-105 Resolution Adopting Fourth Round Spending Plan
R26-106 Resolution Adopting an "Affirmative Marketing Plan" for the Borough of Lincoln Park
R26-107 Resolution Authorizing the Civil Rights Act of 1968 – Federal Fair Housing Law
R26-108 Resolution Authorizing Application for a Grant to Fund ADA Curb Ramp Rehabilitation on Chapel Hill Road through CDBG Program

V. ORDINANCES FOR ADOPTION:

5-26 An Ordinance Amending Article XIII of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, to Establish a Downtown Overlay Zone (D-O) for Block 21303, Lots 1-9, Block 21306, Lots 1, 2.01, 2.02, and 3-8, Block 21305, Lots 1-9, Block 21304, Lots 1-11,Block 21305.1, Lots 1 and 1.1 and Block 21301, Lots 4 and 5
6-26 An Ordinance Amending Article XIII of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, to Establish an Apartment Set-Aside II Overlay Zone (AS-II) for Block 10901, Lot 9
7-26 An Ordinance Amending Article XII of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, to Establish the Mixed-Use Affordable Housing Zone (M-U) and to Rezone Block 21301, Lots 2 & 3 into the M-U Zone
8-26 An Ordinance Amending Article XII of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, to Establish the Apartment Multifamily Residential Inclusionary Zone (RB-10) and to Rezone Block 33802, Lot 2 into the RB-10 Zone
9-26 An Ordinance Amending Article XII of Chapter 28, Zoning, of the Ordinances of the

Borough of Lincoln Park, to Establish the Special Needs Affordable Housing Zone (SN) and to Rezone Block 33803, Lot 53 into the SN Zone

10-26 An Ordinance of the Borough of Lincoln Park, in the County of Morris and State of New Jersey, Repealing Article XIX, Affordable Housing, and Article XX, Development Fees, of Chapter 17, Land Development Review of the Ordinances of the Borough of Lincoln Park to Establish a New Affordable Housing Ordinance

VI. COUNCIL COMMITTEE REPORTS:

VII. PUBLIC HEARING:

VIII. MISCELLANEOUS COMMENTS:

IX. ADJOURNMENT:

RESOLUTION R26-104

RESOLUTION ENDORSING THE AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Borough of Lincoln Park, County of Morris, State of New Jersey, (hereinafter, "Lincoln Park") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"); and

WHEREAS, among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the Program and authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for affordable housing compliance certification; and

WHEREAS, pursuant to the Act and to Directive #14-24 issued by the Director on December 13, 2024, a municipality desiring to participate in the Program was obligated to take the following actions by January 31, 2025: (1) adopt a "binding resolution" determining its present and prospective need affordable housing obligations and (2) to file an action in the form of a declaratory judgment complaint in the County in which the municipality is located within 48 hours after the municipality's adoption of a binding resolution; and

WHEREAS, Lincoln Park adopted a binding resolution on its present and prospective need affordable housing obligations and filed the required declaratory judgment action in a timely manner; and

WHEREAS, the Act also required that a Housing Element and Fair Share Plan (hereinafter, "HEFSP") be prepared and adopted by the Lincoln Park Planning Board (hereinafter, "Planning Board"), and endorsed by the Lincoln Park Governing Body (hereinafter, "Governing Body"), by June 30, 2025; and

WHEREAS, on June 19, 2025, the Lincoln Park Planning Board adopted a Housing Element and Fair Share Plan prepared by RicciPlanning LLC, dated June 8, 2025 ("2025 HEFSP") to address the Borough's Fourth Round affordable housing obligations; and

WHEREAS, the Borough filed its 2025 HEFSP on June 20, 2025 on eCourts; and

WHEREAS, the Governing Body endorsed 2025 HEFSP adopted by the Planning Board on June 23, 2025; and

WHEREAS, Fair Share Housing Center ("FSHC") and White Rock NJ, LLC filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's 2025 HEFSP on September 2, 2025; and

WHEREAS, representatives of the Borough and FSHC entered into a Mediation Agreement dated December 30, 2025 that resolved the issues raised in both of the challenges subject to, among other requirements, the adoption of an Amended Housing Element and Fair Share Plan consistent with the Mediation Agreement; and

WHEREAS, RicciPlanning LLC prepared an Amended Housing Element and Fair Share Plan entitled "Master Plan, Housing Element and Fair Share Plan Amendment", dated June 19, 2025 and revised on February 6, 2026 ("Amended HEFSP"), which is consistent with the Mediation Agreement; and

WHEREAS, the Planning Board adopted the Amended HEFSP as an amendment to Lincoln Park's Master Plan on February 19, 2026; and

WHEREAS, the Governing Body desires to endorse Amended HEFSP adopted by the Planning Board on February 19, 2026.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Lincoln Park, County of Morris, State of New Jersey as follows:

1. The Governing Body does hereby endorse the Amended HEFSP adopted by the Planning Board on February 19, 2026.

2. The Governing Body does hereby authorize the filing of this Resolution endorsing the Amended HEFSP adopted by the Planning Board on eCourts for review by the Court.

3. The Mayor and Clerk, together with other appropriate officers and employees of Lincoln Park, are hereby authorized to take all steps necessary to effectuate the purposes of this Resolution.

4. This Resolution shall take effect immediately.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the March 16, 2026 Regular Meeting.

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Kelli Gallo
Paul Ricci
Joan Ward
File Copy

Resolution No. R26-105
Approved On: 3/2/2026

RESOLUTION R26-105

RESOLUTION ADOPTING FOURTH ROUND SPENDING PLAN

WHEREAS, the Borough of Lincoln Park (the "Borough" or "Lincoln Park") filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action on January 23, 2025; and

WHEREAS, the Court entered an order on April 29, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of 15 units and a Prospective Need of 175 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, on June 19, 2025, the Lincoln Park Planning Board adopted a Housing Element and Fair Share Plan prepared by Ricci Planning LLC, dated June 8, 2025 ("2025 HEFSP") to address the Borough's Fourth Round affordable housing obligations; and

WHEREAS, the Borough filed its 2025 HEFSP on June 20, 2025 on eCourts; and

WHEREAS, Fair Share Housing Center ("FSHC") and White Rock NJ, LLC filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's 2025 HEFSP on September 2, 2025; and

WHEREAS, representatives of the Borough and FSHC entered into a Mediation Agreement dated December 30, 2025 that resolved the issues raised in both of the challenges subject to, among other requirements, the adoption of a Spending Plan; and

WHEREAS, the Borough has prepared a Fourth Round Spending Plan, dated January 31 2026, that is consistent with the applicable statutes and regulations.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey as follows:

1. The Borough of Lincoln Park ("Borough") does hereby adopt the Fourth Round Spending Plan, dated January 31 2026, attached hereto.

2. This Resolution shall take effect immediately.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the March 16, 2026 Regular Meeting.

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Kelli Gallo
Paul Ricci
Joan Ward
File Copy

Resolution No. R26-106
Approved On: 3/2/2026

RESOLUTION R26-106

RESOLUTION ADOPTING AN "AFFIRMATIVE MARKETING PLAN" FOR THE BOROUGH OF LINCOLN PARK

WHEREAS, in accordance with P.L. 2024, Chapter 2 and the New Jersey Uniform Housing Affordability Controls ("UHAC")(N.J.A.C. 5:80-26.1 *et seq.*), the Borough of Lincoln Park is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created are affirmatively marketed to very low-, low- and moderate-income households, particularly those living and/or working within Housing Region 2, the Housing Region encompassing the Borough of Lincoln Park.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Lincoln Park, County of Morris, State of New Jersey, does hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

A. 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, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, 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 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 Lincoln Park is located in Housing Region 2, consisting of Essex, Morris Union and Warren Counties.

B. The Borough of Lincoln Park has a plan to address both its Prior Round Obligation (1987-2025) and its Fourth Round Obligation (2025-2035). 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 municipality's Housing Element and Fair Share Plan, and those that may be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.

C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough Lincoln Park, or the Administrative Agent of any specific developer approved by the municipality.

D. 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.

E. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days prior to expected 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.

F. The Affirmative Marketing Plan is a continuing program that shall be followed throughout the entire period of affordability restrictions. In implementing the Affirmative Marketing Plan, the Administrative Agent, whether acting on behalf of the Borough of Lincoln Park or on behalf of a specific developer, shall meet the following requirements at a minimum:

1. The primary marketing and advertising must be employed at the start of the marketing program and continue until all units are leased or sold or until the number of applications received is at least three times the number of units. 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.

2. The advertisements shall, at a minimum, include:

    a. The name and location of the housing project;
    b. An address sufficient to find directions to the housing units;
    c. A range of prices or rents for the affordable housing units;
    d. The sizes, as measured in number of bedrooms of the affordable housing units;
    e. The types (that is, family, age-restricted, or supportive) and number of affordable units available;
    f. The number of units available to very low-, low-, and moderate-income households;
    g. The accessibility features, if any, of the affordable housing units;
    h. The maximum income permitted to qualify for the affordable housing units;
    i. The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
    j. Where applications (paper and online) for the affordable housing units may be found;
    k. The expected lease-up/closing date(s) for the affordable housing units;
    l. The expected date of the random selection;
    m. The business hours when interested households may obtain paper applications for the affordable housing units;
    n. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
    o. The name of the sales agent and/or rental manager; and
    p. Application fees, if any.

3. Affirmative fair marketing of affordable units must be completed in accordance with the requirements set forth in UHAC at N.J.A.C. 5:80-26.16 in all media and outlets required by the rules and include the Daily Record.

4. Each affordable housing development must complete worksheet substantially in the form of the model affirmative marketing worksheet published by the state.

5. Affordable units must be listed on the New Jersey Housing Resource Center's website (www.njhrc.gov) in accordance with N.J.A.C. 5:80-26.16(f)1 at least 60 days before the random selection.

6. Applications, or notices thereof, used as part of the affirmative marketing program must be available in the following locations:

   a. Essex County Administration Building/Dr. Martin Luther King Justice Building, Morris County Administration Building, Union County Administration Building, Warren County (Wayne Dumont, Jr.) Administration Building
   b. Morris County Library, Warren County Library, Lincoln Park Public Library

7. The affirmative marketing plan shall include the following community and regional organizations: Fair Share Housing Center; the Latino Action Network, Morris County NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, and Supportive Housing Association.

8. The municipality's Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.

G. The municipality's Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Essex, Morris, Union and Warren 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.

H. The municipality's Administrative Agent shall develop, maintain and update a list of major employers in Essex, Morris, Union and Warren Counties that will aid in the affirmative marketing program.

I. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the municipality's Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16(d). This Affirmative Marketing Plan provides a regional preference for very low-, low- and moderate-income households that live and/or work in Housing Region 2, which is comprised of Essex, Morris Union and Warren 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 municipality prior to the affirmative marketing of the units.

J. 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 municipality's Administrative Agent.

BE IT FURTHER RESOLVED that the appropriate municipal officials and professionals are authorized to take all actions required to implement the terms of this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ATTEST:

Joseph Gurkovich, Council President

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the March 16, 2026 Regular Meeting.

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Kelli Gallo
Paul Ricci
Joan Ward
File Copy

Resolution No. R26-107
Approved On: 3/2/2026

RESOLUTION R26-107

The Borough of Lincoln Park supports Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Law) and the New Jersey Law Against Discrimination. It is the policy of the Borough of Lincoln Park to implement programs to ensure equal opportunity in housing for all persons regardless of race, color, religion, ancestry, sex (including pregnancy), national origin, nationality, familial status, marital or domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, mental or physical disability, perceived disability, AIDS/HIV status and Lawful Income or Source of Lawful Rent Payment (Section 8). The Borough of Lincoln Park further objects to discrimination in the sale, rental, leasing, financing of housing or land to be used for construction of housing, or in the provision of brokerage services because of race, color, religion, ancestry, sex, national origin, handicap or disability as prohibited by Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Law) and the New Jersey Law Against Discrimination. Therefore, the Municipal Council of Borough of Lincoln Park do hereby approve the following resolution.

BE IT RESOLVED, that within available resources, Borough of Lincoln Park will assist all persons who feel they have been discriminated against under one of the aforementioned categories, to seek equity under federal and state laws by filing a complaint with the New Jersey Division on Civil Rights and the U.S. Department of Housing and Urban Development, as appropriate.

BE IT FURTHER RESOLVED, that the Borough of Lincoln Park shall publicize this resolution and through this publicity shall cause owners of real estate, developers, and builders to become aware of their respective responsibilities and rights under the Federal Fair Housing Law, the New Jersey Law Against Discrimination, and any local laws or ordinances.

BE IT FURTHER RESOLVED, that the municipality will at a minimum include, but not be limited to: (1) the printing and publicizing of this resolution, a fair housing public notice and other applicable fair housing information through local media, community contacts and placement on the Municipal website and in other social media; (2) distribution of posters, flyers, and any other means which will bring to the attention of those affected, the knowledge of their respective responsibilities and rights concerning equal opportunity in housing.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the March 16, 2026 Regular Meeting.

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Darmofalski Engineering
Department of Public Works
File Copy

Resolution No. R26-108
Approved On: 3/2/2026

RESOLUTION R26-108

Application for a Grant to Fund ADA Curb Ramp Rehabilitation on Chapel Hill Road through the Morris County Community Development Block Grant (CDBG) program

WHEREAS, there is an identified need for ADA Curb Ramp Rehabilitation on Chapel Hill Road; and

WHEREAS, the Borough of Lincoln Park has prioritized the ADA Curb Ramp Rehabilitation on Chapel Hill Road to ensure safe travel for pedestrians; and

WHEREAS, there is a recognized need to maintain safe travel for the residents of Lincoln Park; and

WHEREAS, if awarded CDBG funds, the Borough of Lincoln Park shall implement the activities in a manner to ensure compliance with all applicable federal, state, and local laws and regulations.

NOW THEREFORE BE IT RESOLVED,

1. The Governing body of the Borough of Lincoln Park, Morris County, State of New Jersey, that the Borough Administrator and Borough Engineer are authorized to apply for funding through the 2026 Morris County Community Development Block Grant Program for ADA Curb Ramp Rehabilitation on Chapel Hill Road as described in the proposal.

2. If awarded CDBG funds the Mayor and Clerk are hereby authorized to execute the grant agreement on behalf of Lincoln Park Borough. Their signatures constitute acceptance of the terms and conditions of the grant agreement and approval of the grant agreement.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the March 16, 2026 Regular Meeting.

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Darmofalski Engineering
Department of Public Works
File Copy

Ordinance: #1,716
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 5-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 5-26

AN ORDINANCE AMENDING ARTICLE XIII OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO ESTABLISH A DOWNTOWN OVERLAY ZONE (D-O) FOR BLOCK 21303, LOTS 1-9, BLOCK 21306, LOTS 1, 2.01, 2.02, AND 3-8, BLOCK 21305, LOTS 1-9, BLOCK 21304, LOTS 1-11, BLOCK 21305.1, LOTS 1 AND 1.1, AND BLOCK 21301, LOTS 4 AND 5

WHEREAS, the Municipal Land Use Law ("MLUL") of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Borough desires to create additional zones in which multi-family non-age-restricted housing developments are permitted as an overlay option to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Lincoln Park may satisfy its unmet need obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

WHEREAS, the Borough finds the area that is proposed to be overlay zoned to adequately addresses its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Section 28-2.1, List of Zones, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby amended to include the following:

D-O Downtown Overlay Zone

SECTION TWO. Article XIII, Reserved, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park is hereby amended to establish new Article XIII.A., Downtown Overlay Zone District, to read as follows:

ARTICLE XIII.A

DOWNTOWN OVERLAY ZONE (D-O)

§ 28-13A.1 Downtown Overlay Zone.

A. Purpose. The purpose of this section is to establish an overlay zone to provide an opportunity to develop multifamily residential housing units affordable to low- and moderate-income families. Development is to be limited in height, density, and development coverages, with adequate space provisions comparable with the suburban *downtown* character of the Borough of *Lincoln Park*. This ordinance preserves the right to use the subject property in accordance with existing zoning and creates an option to develop the property with another use at an increased intensity, including affordable housing. This overlay applies to the following properties:

(1) Block 21303, Lots 1-9, Block 21306, Lots 1, 2.01, 2.02, and 3-8, Block 21305, Lots 1-9, Block 21304, Lots 1-11, Block 21305.1, Lots 1 and 1.1, and Block 21301, Lots 4 and 5.

B. Permitted principal uses. Apartment development on upper floors of buildings is subject to the specific conditions and limitations as set forth in this chapter.

C. Required affordable housing set-aside. Any residential development created in the Downtown Overlay Zone must provide a minimum of 20% of the total number of units on-site to be constructed as affordable to very-low, low- and moderate-income eligible families.

D. All affordable housing units shall comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include, but is not limited to:

i. The requirement that at least thirteen percent (13%) of the affordable units within the development shall be required to be for very low-income households earning thirty percent (30%) or less of the median income.

ii. The bedroom distribution of very-low, low-, and moderate-income units for affordable units shall be as follows:

(a) No more than 20% of the very-low, low- and moderate-income units shall be one-bedroom units.

(b) At least 20% of the very-low, low- and moderate-income units shall be three-bedroom units.

(c) At least 30% of the very-low, low- and moderate-income units shall be two-bedroom units.

iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units;

iv. Minimum unit sizes by square footage as required by UHAC for affordable housing units; and,

v. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

E. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or

floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

F. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

G. All very-low, low- and moderate-income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") and any amendments thereto; applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), with the sole exception that a minimum of 13% of the affordable units will be made available to very low income households, defined as households earning 30% or less of the regional median income by household size pursuant to the FHA.

H. Permitted accessory uses. Within the Downtown Overlay Zone, the following accessory uses shall be permitted:

(1) Laundry rooms, recreational rooms and other similar such accessory uses which are for the common benefit of all residents of the multifamily development.

I. Minimum lot size requirements. The minimum lot size within Downtown Overlay Zone shall be not less than the minimum lot size for the district in which they are located.

J. Dwelling unit density. Dwelling density shall not exceed *32* dwelling units per acre.

(1) Impervious coverage. The sum of the area of all principal and accessory buildings shall not exceed 90 percent.

K. Yard requirements.

(1) The following minimum yard requirements shall apply:

AHO Zone	Front (feet)	Side (feet)	Rear (feet)
D-O	0	0	10

L. Open space.

(1) Any premises used for multifamily dwelling purposes shall contain a minimum of 10% of the lot area as open space. Roof area when improved and available to the public may be used to satisfy up to 5% of this requirement.

(2) Required open space shall be easily accessible to the occupants of all of the dwelling units on the premises, which is allocated to individual dwelling units, as hereinabove provided, shall be easily accessible to the occupants of the units to which such space is allocated.

(3) No portion of any required front yard or any required planting area shall be used for required open space.

(4) No portion of any required open space shall be used for driveways or parking spaces.

(5) No structure of any kind shall be permitted within any required open space, except for swimming pools, outdoor sport structures or playgrounds, or other common outdoor amenities such as courtyards, provided that not more than 25% of any structure shall be covered by a roof.

(6) Required open space shall be subject to site plan review as to design and layout, shall be attractively landscaped and shall not exceed a grade of 5% and shall be of a design to accommodate the needs of the occupants or contemplated occupants of the dwelling units it is designed to serve.

(7) Roof space on accessory buildings or structures, including roof space on parking facilities, may be used as required open space, provided that:

(a) Such space shall be accessible to occupants of the dwelling units it is designed to serve, by pedestrian means of access other than stairs.

(b) Such space shall contain railings, fencing or similar treatment to make it safe and suitable for recreational use.

M. Buffer requirements. A landscaped buffer area shall be required and consist of planted materials intended to provide an attractive visual screen within all of the following described areas adjacent to each side lot line and the rear lot line of each lot:

(1) When adjacent to property used or zoned for residential purposes: 10 feet.

N. Regulations concerning yards, planting areas, fences, etc.

(1) Within a required front yard, no accessory building or structure shall be permitted.

(2) Notwithstanding any of the foregoing restrictions:

(a) Cornices and cantilevered roofs may project into any required yard a distance of not more than 24 inches.

(b) Belt courses, windowsills and similar ornamental features may project into any required yard a distance of not more than 12 inches, and chimneys may so project a distance of not more than 18 inches.

(c) A required open fire escape or fireproof stairway may project into any required yard a distance of not more than eight feet.

(3) Accessory buildings and structures may be erected in side or rear yards, provided that they do not encroach on any required planting area.

O. Height limitations.

(1) The following maximum height requirements shall apply:

AHO Zone	Feet	Stories
D-O	40	3

(2) Accessory buildings shall not exceed 20 feet in height.

(3) Chimneys, flues, towers, bulkheads, spires, and similar decorative features may exceed the aforesaid height limitations if the total area of all such features on any single building does not exceed 20% of the area of the roof of such building.

P. Off-street parking shall be provided at the following rates:

- Studio and One-Bedroom Residential Unit: 1 space
- Two and Three-Bedroom Residential Unit: 1.5 spaces

Q. Streetscape standards. Private development shall include street improvements to enhance the downtown streetscape. Required streetscape improvements will include a specific architectural and site design theme similar to the streetscape improvements undertaken at the intersection of Main Street and Station Road. Site improvements will include benches, trash receptacles, area lighting, street trees, paver treatment, and planters. These improvements shall be consistent with plans and specifications on file with the Borough Engineer.

R. Architectural Design Standards.

(a) Facade Design.

(1) Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street-level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.

(2) Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:

(i) Each vertical articulation shall be no greater than 30 feet apart.

(ii) Each vertical articulation shall be a minimum of one foot deep.

(iii) Each vertical projection noted above may extend into the required front yard a maximum of 18 inches in depth.

(iv) Building walls with expansive blank walls are prohibited on any building facade regardless of its orientation.

(b) Rooflines. Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

(c) All ground-level retail and service uses that face a public street shall have clear glass on at least 50% of their facades between two feet and eight feet above grade.

(d) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

(e) All buildings should relate harmoniously to the site's natural features and existing buildings, as well as other structures in the vicinity that have a visual

relationship and orientation to the proposed buildings. Such features should be incorporated into the design of building form and mass and assist in the determination of building orientation in order to preserve visual access to natural and man-made community focal points.

(f) Buildings with expansive blank walls are prohibited. Appropriate facade treatments should be imposed to ensure that such buildings and facades are integrated with the rest of the development and the entirety of the building.

(g) New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.

(h) A human scale of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.

(i) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and framing should be utilized to reinforce verticality.

(j) Refuse and recycling shall be located interior to a building or, alternatively, if located outside, the refuse area shall be appropriately screened by a decorative masonry wall consistent with the type of building materials used within the development, not to exceed six feet.

(k) Rooftop utilities, including mechanical, electrical, and plumbing equipment, and HVAC units, are permitted but shall be shielded from public view with appropriate screening that complements the character of the building's architecture.

(l) Internal private balconies not facing a public right-of-way shall be permitted but shall not exceed a maximum depth of five feet beyond the building facade nor encroach within a required setback. Alternatively, Juliet balconies are permitted. Notwithstanding the foregoing, ground-level private and common courtyards shall not be subject to these requirements and may be permitted within the required setback provided the encroachment is screened or landscaped.

SECTION THREE. The Zoning Map of the Borough of Lincoln Park, Morris County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

SECTION FOUR. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION FIVE. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION SIX. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION SEVEN. This Ordinance shall take effect as provided by law.

ATTEST:

Joseph Gurkovich, Council President

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**

Ordinance: #1,717
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 6-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 6-26

AN ORDINANCE AMENDING ARTICLE XIII OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO ESTABLISH AN APARTMENT SET-ASIDE II OVERLAY ZONE (AS-II) FOR BLOCK 10901, LOT 9

WHEREAS, the Municipal Land Use Law ("MLUL") of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Borough desires to create additional zones in which multi-family non-age-restricted housing developments are permitted as an overlay option to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Lincoln Park may satisfy its unmet need obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

WHEREAS, the Borough finds the area that is proposed to be overlay zoned adequately addresses its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Section 28-2.1, List of Zones, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby amended to include the following:

AS-II Apartment Set-Aside II Overlay Zone

SECTION TWO. Article XIII, Reserved, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park is hereby amended to establish new Article XIII.B., Apartment Set-Aside II Overlay Zone, to read as follows:

ARTICLE XIII.B.

Apartment Set-Aside II Overlay Zone (AS-II)

§ 28-13B.1. Purpose.
The purpose of the Apartment Set-Aside Overlay II Zone (AS-II) is to provide for and encourage the construction of housing affordable to very-low, low- and moderate-income

households by permitting townhouse development conditioned upon the requirement to set aside at least 20% of the units built for very-low, low- and moderate-income households. This overlay applies to Block 10901, Lot 9.

§ 28-13B.2. Permitted uses.

A. Within the AS-II Overlay Zone, the following uses are permitted:

(1) Provided that 20% of the dwelling units constructed are set aside for lease or purchase by very-low, low- and moderate-income households set forth in Article XI, the following two uses are permitted:

(a) Townhouses as defined in § 28-1.2, except that individual yards shall not be required and apartments may be included in the same building with the townhouse units.

(b) Apartments.

B. Other uses permitted are:

(1) Common open space.

(2) Signs as accessory uses, as follows:

(a) Signs located at the entrance of a development. The total surface area of any such sign shall not exceed 24 square feet in surface area. No more than one sign shall be permitted per entrance.

(b) Directional signs for the convenience of the residents to identify parking spaces, rental offices, recreation areas, entrances and exits, which signs shall not exceed four square feet in surface area.

(a) The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by Article XXI, Signs, of this chapter.

(3) Single-family and two-family dwellings in accordance with Article III, Schedule of General Requirements, and Article V of this chapter for the R-15 Zone.

(4) Accessory uses customarily incidental to the above uses.

C. Twenty percent (20%) of the residential units shall be restricted to very-low, low and moderate-income households. Fractions of units shall be rounded up.

D. All affordable housing units shall comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D- 301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include but is not limited to:

i. The requirement that at least thirteen percent (13%) of the affordable units within the development shall be required to be for very low income households earning thirty percent (30%) or less of median income;

ii. The bedroom distribution of very-low, low- and moderate- income units for affordable units shall be as follows.

(a) No more than 20% of the very-low, low- and moderate-income units shall be one-bedroom units.

(b) At least 20% of the very-low, low- and moderate-income units shall be three-bedroom units.

(c) At least 30% of the very-low, low- and moderate-income units shall be two-bedroom units.

iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units;

iv. Minimum unit sizes by square footage as required by UHAC for affordable housing units; and,

v. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

E. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

F. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

G. All very-low, low- and moderate-income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") and any amendments thereto; applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), with the sole exception that a minimum of 13% of the affordable units will be made available to very low income households, defined as households earning 30% or less of the regional median income by household size pursuant to the FHA.

H. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units. The affordable units shall be the same type of housing unit as the market rate units, meaning that a market rate building available to families shall not be developed to provide age-restricted housing units.

I.

§ 28-13B.3. Density standards.

The density of an AS-II Overlay Zone development shall not exceed 10 dwelling units per acre of site, including any new on-site streets, public or private.

§ 28-13B.4. Minimum site area.

The minimum area for an AS-II Overlay Zone development shall be ten contiguous acres.

§ 28-13B.5. Building coverage and impervious surface.

The maximum coverage of the site by all buildings shall be 20% of the site area. The maximum impervious surface shall be 35% of the site area.

§ 28-13B.6. Building requirements.

A. The front and rear yard setback shall not be less than 75 feet. The side setback shall not be less than 25 feet.

B. The maximum height shall be fifty-five (55) feet as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs; the deckline of mansard roofs; or, the mean height between eaves and ridge for gable, hip and gambrel roofs.

C. Accessory buildings, except where existing, shall comply in all respects with the bulk requirements set forth in this Section. Accessory buildings shall not exceed 16 feet in height.

D. The minimum width of any townhouse dwelling unit or flat shall be 18 feet.

E. The distance between buildings shall be not less than 30 feet.

F. Each building shall contain an enclosed, lockable storage space for each unit, exclusive of closets. Such storage space shall be at least 40 square feet in area and six feet in height and shall be provided within the unit or in a common area such as a basement or cellar.

G. Minimum floor area.

(1) The minimum floor space of any unit shall be as follows:

(a) One-bedroom unit: 700 square feet.

(b) Two-bedroom unit: 825 square feet.

(c) Three-bedroom unit: 975 square feet.

§ 28-13B.7. Landscaping and screening.

A. All developments shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walks shall be provided with shade trees which are at least a minimum size and character in accordance with the standards in Chapter 17, Land Development Review, and of the Shade Tree Committee of the Borough.

B. Open space adjacent to buildings, malls between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass or planted with trees and shrubs or any combination thereof. Areas not used for buildings, terraces, recreation equipment, drives, parking spaces or sidewalks shall be seeded or landscaped and maintained in a proper condition.

C. Where necessary to shield occupants and adjoining properties from unsightly, disturbing or light-glaring areas, screening or buffers consisting of a solid evergreen hedge at least five feet tall at planting or earth berm and smaller plantings totaling five feet in height shall be installed. The municipal agency may permit a solid wood fence or decorative masonry wall in lieu of an evergreen hedge where conditions warrant.

D. The developer shall furnish, together with the plans and specifications required under Chapter 17, Land Development Review, of the Code of the Borough of Lincoln Park, landscaping plans drawn by a licensed professional, indicating landscaping intended for the development as well as plans for lighting the grounds, roads, drives, walks, parking areas and building entrances. Additional plans shall show contours, drainage areas, streams, wooded areas and any other natural features of the land in a natural state before development proposals.

E. There shall be a buffer strip of at least 25 feet in width on all lot lines adjoining zone district lines and on all lot lines adjoining existing improved residential property. No buffer shall be required where such lot line borders a public street. All such buffer strips, if wooded, shall remain in their natural state or otherwise shall be planted with an evergreen screen at least six feet in height.

SECTION THREE. The Zoning Map of the Borough of Lincoln Park, Morris County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

SECTION FOUR. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION FIVE. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION SIX. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION SEVEN. This Ordinance shall take effect as provided by law.

Ordinance: #1,718
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 7-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 7-26

AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO ESTABLISH THE MIXED-USE AFFORDABLE HOUSING ZONE (M-U) AND TO REZONE BLOCK 21301, LOTS 2 & 3 INTO THE M-U ZONE

WHEREAS, the Municipal Land Use Law ("MLUL") of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Borough desires to create additional zones in which inclusionary multi-family non-age-restricted housing developments are permitted to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Lincoln Park may satisfy its constitutional obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

WHEREAS, the Borough finds the area that is proposed to be rezoned is available, suitable, developable and approvable, as those terms have been defined at N.J.A.C. 5:93-1, et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Section 28-2.1, List of Zones, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby amended to include the following:

M-U Mixed-Use Affordable Housing Zone

SECTION TWO. Article XII, Reserved, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park is hereby amended and supplemented by the addition of the following:

ARTICLE XII.A.

Mixed-Use Affordable Housing Zone (M-U)

§ 28-12A.1. Mixed Use Affordable Housing Zone (M-U)

a. Purpose. The purpose of this zoning district is to encourage the construction of very-low, low- and moderate-income housing by permitting mixed-use commercial development with inclusionary multifamily development subject to the Mixed Use-Affordable Housing Zone

regulations enumerated herein at Block 21301, Lots 2 and 3 (Old Block 5, Lots 23, 32 & 34). It is further the intent of the zone to promote neighborhood-scale mixed-use development. Large-scale, single-user commercial development is to be discouraged in this zone.

b. Principal Permitted Commercial and Residential Uses.

1. Retail business.

2. Dance studios, art and photographic studios, yoga and wellness studios or similar such uses.

3. Restaurants and food establishments without drive-through facilities.

4. Pharmacies without drive-through facilities.

5. Health spas, gym and boutique exercise/fitness facilities.

6. General office uses.

7. Multifamily residential housing on ground level, above commercial or as stand-alone buildings provided no more than 30% of such multifamily residential units may be placed on ground level that are lined by a commercial use facing Beaver Brook Road.

c. Multiple permitted uses may occupy a single building.

d. Accessory Uses. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the M-U Zone.

e. Prohibited Uses. Any use not specifically permitted herein is prohibited.

f. Dwelling Unit Maximum Density. The maximum number of permitted dwelling units shall not exceed 32 units per acre.

g. It is intended that this zone be developed as a mix of residential and commercial uses to satisfy the Borough's affordable housing obligation. It is further intended that the zone be developed in a comprehensive and coordinated fashion. Therefore, no development may proceed without a comprehensive development plan that demonstrates that the mix of commercial and residential components, including the affordable housing obligation, as required by this zone, are satisfied. This requirement should not be construed as precluding a phased development plan; provided, however, that such phasing guarantees the development of affordable housing as contemplated in the zone and in accordance with the Borough's affordable housing requirements and state affordable housing laws and regulations.

h. Building area, external yard and bulk requirements shall be as follows:

1. Minimum lot area (acres): 0.5
2. Minimum distance between buildings (feet).
   (a) Buildings fronting directly on Beaver Brook Road (feet): 15.
   (b) All other buildings (feet): 10.
3. Minimum setbacks from external lot lines (feet) shall be as follows:
   (a)Front yard: 15.
   (b)Side yard: 10.
   (c)Rear yard: 15.
4. Maximum building lot coverage (percentage): 60.
5. Maximum impervious lot coverage (percentage): 90.
6. Building height (stories/feet): 3 and 40.

i. Site Design Requirements. The following site design standards are intended to promote a unified theme, displayed through the application of common building materials to achieve a harmonious and cohesive design. Deviations from this section shall be considered design standard exceptions and not variances and may be granted at the discretion of the Planning Board if doing so is compatible and consistent with the intent and purposes of the

ATTEST:

Joseph Gurkovich, Council President

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**

zone.

1. Architectural Design Standards.

(a)Facade Design.

1. Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street-level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
2. Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
   - i. Each vertical articulation shall be no greater than 30 feet apart.
   - ii. Each vertical articulation shall be a minimum of one foot deep.
   - iii. Each vertical projection noted above may extend into the required front yard a maximum of 18 inches in depth.
   - iv. Building walls with expansive blank walls are prohibited on any building facade regardless of its orientation.

b) Rooflines. Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

c) All ground-level retail and service uses that face a public street shall have clear glass on at least 50% of their facades between two feet and eight feet above grade.

d) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

e) All buildings should relate harmoniously to the site's natural features and existing buildings, as well as other structures in the vicinity that have a visual relationship and orientation to the proposed buildings. Such features should be incorporated into the design of building form and mass and assist in the determination of building orientation in order to preserve visual access to natural and man-made community focal points.

f) Buildings with expansive blank walls are prohibited. Appropriate facade treatments should be imposed to ensure that such buildings and facades are integrated with the rest of the development and the entirety of the building.

g) New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.

h) Cornices, awnings, canopies, flagpoles, signage, and other ornamental features should be encouraged as a means to enhance the visual environment. Such features may be permitted to project over pedestrian sidewalks, with a minimum vertical clearance of 8.5 feet, to within four feet of a curb.

i) A human scale of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.

j) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and

framing should be utilized to reinforce verticality.

k) Refuse and recycling shall be located interior to a building or, alternatively, if located outside, the refuse area shall be appropriately screened by decorative masonry wall consistent with the type of building materials used within the development not to exceed six feet.

l) Rooftop utilities, including mechanical, electrical, and plumbing equipment, and HVAC units, are permitted but shall be shielded from public view with appropriate screening that complements the character of the buildings architecture.

m) Internal private balconies not facing a public right-of-way shall be permitted but shall not exceed a maximum depth of five feet beyond the building facade nor encroach within a required setback. Alternatively, Juliet balconies are permitted. Notwithstanding the foregoing, ground level private and common courtyards shall not be subject to these requirements and may be permitted within the required setback provided the encroachment is screened or landscaped.

j. All affordable housing units shall comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include but is not limited to:

i. The requirement that at least thirteen percent (13%) of the affordable units within the development shall be required to be for very low income households earning thirty percent (30%) or less of median income;

ii. The bedroom distribution of very-low, low- and moderate- income units for affordable units shall be as follows.

(a) No more than 20% of the very-low, low- and moderate-income units shall be one-bedroom units.

(b) At least 20% of the very-low, low- and moderate-income units shall be three-bedroom units.

(c) At least 30% of the very-low, low- and moderate-income units shall be two-bedroom units.

iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units;

iv. Minimum unit sizes by square footage as required by UHAC for affordable housing units; and,

v. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

k. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

l. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

m. All very-low, low- and moderate-income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") and any amendments thereto; applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), with the sole exception that a minimum of 13% of the affordable units will be made available to very low income households, defined as households earning 30% or less of the regional median income by household size pursuant to the FHA.

SECTION THREE. The Zoning District for the following properties listed by block and lot shall be changed as follows:

Block	Lot	Current Zone	to	New Zone
21301	2	B-2		M-U
21301	3	B-2		M-U

SECTION FOUR. The Zoning Map of the Borough of Lincoln Park, Morris County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

SECTION FIVE. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION SIX. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION SEVEN. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION EIGHT. This Ordinance shall take effect as provided by law.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**

Ordinance: #1,719
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 8-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 8-26

AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO ESTABLISH THE APARTMENT MULTIFAMILY RESIDENTIAL INCLUSIONARY ZONE (RB-10) AND TO REZONE BLOCK 33802, LOT 2 INTO THE RB-10 ZONE

WHEREAS, the Municipal Land Use Law ("MLUL") of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Borough desires to create additional zones in which inclusionary multi-family non-age-restricted housing developments are permitted to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Lincoln Park may satisfy its constitutional obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

WHEREAS, the Borough finds the area that is proposed to be rezoned is available, suitable, developable and approvable, as those terms have been defined at N.J.A.C. 5:93-1, et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Section 28-2.1, List of Zones, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby amended to include the following:

RB-10 Apartment Multifamily Residential Inclusionary Zone

SECTION TWO. Article XII, Reserved, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park is hereby amended and supplemented by the addition of the following:

ARTICLE XII.B.

APARTMENT MULTIFAMILY RESIDENTIAL INCLUSIONARY ZONE (RB-10)

Section 28-12B.1. PURPOSE:

The purpose of the RB-10 inclusionary zone is to create the opportunity for the construction of multi-family residential developments, with a set-aside for housing units affordable to very-low, low and moderate income households, which development would be permitted as a matter of right on the sites included in this Zone. The required set-aside rate shall be at least twenty (20) percent of all multi-family housing units built (these units shall hereafter be referred to as "Affordable Units"). This inclusionary zoning ordinance applies to Block 33802, Lot 2.

Section 28-12B.2. PERMITTED USES:

1. The following uses are permitted in the RB-10 Zone.
   - A. Apartment Units.
   - B. Commercial Bank ATM Operation, including drive-through ATM drive through facilities.
   - C. More than one principal permitted land use and principal structure shall be permitted.
2. The following accessory uses and accessory buildings shall be permitted in the RB-10 Zone:
   - A. Common open space including community buildings and recreational facilities.
   - B. Any legally existing nonconforming accessory building may remain without the need for variance relief.
   - C. Uses that are customary and incidental to the principal use.
   - D. Signs subject to the following:
     1. Entrance signs, provided that the total surface area shall not exceed thirty-two (32') square feet in surface area on any single side. No more than one (1) sign shall be permitted per entrance.
     2. One (1) building-mounted sign shall be permitted on the non-residential portion of the building having an area that shall not exceed ten (10) square feet in area.
     3. Directional signs to identify parking areas, sales or rental offices, recreation areas, entrance and exits, which signs shall not exceed two (2') square feet in surface area.
     4. The design, location and landscaping of signs shall be in accordance with the specifications and conditions set forth in ARTICLE XXI (SIGNS) of this Chapter.
3. The foregoing uses are permitted provided that at least twenty (20) percent of all dwelling units constructed in the Zone shall be Affordable Units.

4. Twenty percent (20%) of the residential units shall be restricted to very-low, low and moderate-income households. Fractions of units shall be rounded up.

5. All affordable housing units shall comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D- 301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include but is not limited to:

   i. The requirement that at least thirteen percent (13%) of the affordable units within the development shall be required to be for very low income households earning thirty percent (30%) or less of median income;

   ii. The bedroom distribution of very-low, low- and moderate- income units for affordable units shall be as follows.
   (a) No more than 20% of the very-low, low- and moderate-income units shall be one-bedroom units.

   (b) At least 20% of the very-low, low- and moderate-income units shall be three-bedroom units.

   (c) At least 30% of the very-low, low- and moderate-income units shall be two-bedroom units.

   iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units;

   iv. Minimum unit sizes by square footage as required by UHAC for affordable housing units; and,

   v. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

6. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

7. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

8. All very-low, low- and moderate-income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") and any amendments thereto; applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), with the sole exception that a minimum of 13% of the affordable units will be made available to very low income households, defined as households earning 30% or less of the regional median income by household size pursuant to the FHA.

Section 28-12B.3. DENSITY AND BULK REQUIREMENTS:

1. The minimum lot area shall be at least 1 contiguous acre, and the density shall not exceed 26 dwelling units per gross acre, up to a maximum of 33 units.

2. There shall be a minimum frontage of two hundred (200) feet upon an

accepted public street, improved to the street specification standards of the Borough, County or State.

3. The maximum height of any portion of a building or structure located within seventy-five (75) feet of Main Street shall be forty-five (45) feet as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs; the deckline of mansard roofs; or, the mean height between eaves and ridge for gable, hip and gambrel roofs.

4. The maximum building surface coverage shall not exceed twenty-five (25) percent of the site area.

5. The maximum impervious surface coverage (including all buildings) shall not exceed eighty (80) percent of the site area.

6. No building shall be located within fifty (50) feet of a front lot line nor within twenty-five (25) feet of a side or rear lot line.

7. Accessory buildings, except where existing, shall comply in all respects with the bulk requirements set forth in this Section.

Section 28-12B.4. PARKING REQUIREMENTS:

1. On-site parking shall be provided in conformance with the requirements of the Residential Site Improvement Standards ("RSIS").

2. Any outdoor parking area for three (3) or more automobiles shall be separated from the nearest building by a sidewalk at least four (4) feet wide.

3. There shall be no parking within nine (9) feet of the front lot line nor within nine (9) feet of any side lot line.

4. Surface parking areas shall be paved and curbed and provided with adequate storm water drainage in conformance with applicable Borough and State requirements.

5. No on-site parking shall be required for a drive-through ATM.

Section 28-12B.5. STREETS AND SIDEWALKS:

1. All streets, sidewalks and driveways in the RB-10 Zone shall be in conformance with applicable RSIS requirements.

2. Primary access to the development shall be from a County or State road.

3. Sidewalks shall be provided in suitable locations including along the street frontage and at entrances and exits to the development and to the building(s) within the development and wherever pedestrian traffic is anticipated to occur.

Section 28-12B.6. OPEN SPACE ORGANIZATION:

It is the intent of the zone plan that all RB-10 Zone development shall be designated and maintained as a private development. Subject to the provisions of N.J.S.A. 40:67-23.2 the Developer shall comply with the provisions of Chapter 17, Section 187, COMMON OPEN SPACE and Section 188, COMMON OPEN SPACE ON-TRACT AND OFF-TRACT IMPROVEMENTS AND UTILITIES. Maintenance of all internal roadways,

sidewalks, curbs, drainage, landscaping, sewer lines, lighting and the provision of other types of common space maintenance services, such as snow and ice removal, shall be provided by the owner or condominium association so as to maintain adequate, convenient and safe use of the project.

Section 28-12B.7. BUILDING STANDARDS:

1. Each one, two and three-bedroom unit shall be provided with an enclosed, lockable storage space, in addition to the closets located within these units. Such storage space shall be at least 100 cubic feet in area and at least six (6) feet in height and shall be provided within or adjacent to a common area such as a basement or hallway provided that such storage space shall have either direct access to the exterior of the building or access to the exterior via a common interior hallway with elevator access, if above the ground level.
2. No structure or equipment of any kind shall be attached to the finished exterior surface of the roof, walls or other portions of any building other than (a) residential-style lighting fixtures, (b) gutters, (c) downspouts, (d) shutters, (e) structures, fixtures or equipment required for compliance with the Uniform Construction Code. Such deck, balcony or patio must be surrounded by a railing not exceeding 36 inches in height or the minimum height required by the Uniform Construction Code, whichever is greater.

Section 28-12B.8. EXTERIOR BUILDING DESIGN:

Buildings shall be of high-quality design and contribute to an improved appearance and image of the area and surrounding areas. To achieve this, the following regulations shall apply:

1. Primary façade surfaces shall comprise brick, stone, and/or fiber-cement board.
2. Large blank walls shall be prohibited.
3. The area covered by primary façade surfaces shall comprise at least 60 percent of each building façade inclusive of windows and doors.
4. The fenestrated area of the façade surface shall comprise at least 20 percent of the total façade surface of each building elevation.
5. Exterior walls shall not exceed 15 linear feet without being interrupted by a window or entry.
6. Buildings shall include a basecourse of between three (3) and four (4) feet in height along the ground level of all façades. The color of such basecourse shall contrast with the remainder of the façade surface.
7. The use of Exterior Insulation Finishing System (EIFS) on exterior façade surfaces is prohibited.
8. The inclusion of stringcourses above the ground floor is encouraged.
9. The color of window and door surrounds shall contrast with the façade surface.
10. The use of exterior millwork as a façade adornment is encouraged.
11. The inclusion of porte-cocheres and similar features in encouraged to integrate the preexisting commercial bank ATM.
12. Inclusion of gables and pitched roofs in building design is encouraged.
13. Balconies or balustrades are permitted. A maximum depth of 3.5 feet is permitted for all balconies visible from a public roadway or right-of-way. When provided, such elements shall

not project outside of the overall building design.

14. Exterior-mounted mechanical and electrical equipment shall be architecturally screened or placed on a rooftop and in a location that is not visible from the public right-of-way or adjoining residences.

    a. Freestanding building mechanical and electrical equipment may be provided where it is not feasible to locate such equipment on a rooftop or directly mounted to a building. In such cases, however, said equipment shall be located within a gated enclosure of an architectural design that is compatible with the associated building and landscaping shall be provided at the base of said enclosure. This requirement for location within an enclosure and provision of landscaping may be waived when the Borough Engineer determines that not providing same is in the best interest of the public health, safety, or welfare.

15. Packaged Terminal Air Conditioner (PTAC) or similar heating, ventilation, and air conditioning (HVAC) units with exposed "window air conditioner type" venting shall not be permitted to achieve lower utility costs for residents.

16. Ventilation openings.

    a. Wall vents shall not be located less than 12 feet above the average sidewalk grade in front of the building.

    b. Wall vents facing a public right-of-way shall have an ornate or decorative grill that matches and enhances the architectural style of the building.

17. Horizontal Articulation/Façade Length:

    a. Building facades in excess of 120 feet in length shall be designed to avoid a monolithic appearance by using different façade materials and building setbacks or articulations that break the building into smaller increments and sections.

    b. Design emphasis shall be placed on all building facades facing a public roadway.

    c. Each building façade greater than 60 feet in length feet shall incorporate wall plane projections or recesses that are compatible with the proposed building architecture.

    d. Expanses of a solid wall without window or doorway openings shall not exceed 30 feet in length.

Section 28-12B.9. LANDSCAPING, BUFFER AREAS AND LIGHTING:

1. The Developer shall furnish, along with the plans and specifications required under Chapter 17 (DEVELOPMENT REVIEW ORDINANCE) of the code of the Borough of Lincoln Park, landscaping plans drawn by a licensed professional which shall include lighting plans for illuminating the grounds, roads, drives, walks, parking areas and building entrances of the development. Plans shall also be provided showing the existing contours, drainage areas, streams, wooded areas, and any other natural features of the land prior to the proposed development.

2. Down lighting shall be provided around all buildings. All walkways, parking areas and outdoor activity areas to be used after dark shall be lighted. Adequate shielding shall be provided so that direct or reflected glare from any on-site source shall measure no more than 0.5 foot candles at any property line and no more than 1.5 foot candles at the entrance or exit driveways.

3. All development shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walkways shall be provided with shade trees of a minimum size and type prescribed by Municipal Agency consistent with Chapter 17 Land Development Review.

4. Open space adjacent to buildings and spaces between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass and shall be planted with trees and shrubs or any combination thereof. Areas of the site not used for buildings, terraces, drives and parking spaces shall be seeded and landscaped and shall be maintained in a proper condition, unless approved by the Municipal Agency to remain in a natural state.

5. Screening or buffers consisting of plantings and fences shall be required around outdoor utility structures, and other similar areas, and around all parking areas to shield such areas and any associated lighting, to the extent practicable, from view by occupants and adjoining properties. Such screening or buffers shall consist of either (a) a solid evergreen hedge at least four (4) feet tall at time of planting, or (b) earthen berms with smaller plantings (not less than three (3) feet tall at planting) totaling at least four (4) feet in combined height. Screening and buffer plantings shall also be required along all residential perimeter property lines, where existing vegetation does not provide an effective buffer or screen. When adjoining a residential property, such plantings shall consist of a double staggered row of evergreen trees to form a continuous horizontal visual barrier. Such plantings shall be at least six (6) to eight (8) feet tall at the time of planting. The spacing of the plantings – center-to-center and offset of the staggered rows – shall be designed to achieve a continuous visual horizontal barrier at the time of planting. The use of earthen berms, with shorter plantings on top, to achieve the stipulated six (6) to eight (8) feet height at the time of planting, shall only be considered for approval by the Municipal Agency when it is determined that the installation of such earthen berms will not adversely impact existing vegetation that should be retained and surrounding properties.

6. There shall be a buffer at least ten (10) feet in width along all lot lines. All such buffers, if wooded, shall be encouraged to remain in their natural state and shall be supplemented with additional plantings where necessary for effective screening. Where an emergency access drive constructed of structural grass pavers is located within a required buffer, no plantings shall be required (other than grass within the structural grass pavers). Otherwise, such buffer (when not already sufficiently wooded) shall be planted with a landscaped visual screen at least six (6) to eight (8) feet in height at time of planting.

Section 28-12B.10. UTILITIES AND GARBAGE DISPOSAL.

1. Garbage collection shall be accomplished from common refuse collection containers in the case of buildings containing apartment flats. Common refuse collection containers shall be located either within one or more separate walled enclosures or within a portion of each building that is walled off from the rest of the building and is directly

accessible to the outdoors for collection purposes. Where common refuse collection containers are provided, the enclosure shall have adequate storage space for all recyclable materials as well and shall be readily accessible for collection purposes without the need for special accommodations.

2. Every dwelling unit shall be provided with public water and public sanitary sewer, which shall be installed by and at the expense of the Developer. In addition, a fire hydrant shall be provided as recommended by the Fire Official.

3. All utilities shall be installed underground.

4. Street lighting on public and private streets shall be in accordance with the specifications in the Borough Ordinance.

5. Adequate lighting shall be provided along pedestrian walkways, within parking areas, and at dwelling entrances and access routes.

Section 28-12B.11. Application Review Procedures

The Planning Board shall comply with the provisions of N.J.A.C. 5:93-10.1 regarding the expedited review of inclusionary residential development applications.

SECTION THREE. The Zoning District for the following properties listed by block and lot shall be changed as follows:

Block	Lot	Current Zone	to	New Zone
33802	2	LB		RB-10

SECTION FOUR. The Zoning Map of the Borough of Lincoln Park, Morris County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

SECTION FIVE. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION SEVEN. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION EIGHT. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION NINE. This Ordinance shall take effect as provided by law.

ATTEST:

Joseph Gurkovich, Council President

Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**

Ordinance: #1,720
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 9-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 9-26

AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO ESTABLISH THE SPECIAL NEEDS AFFORDABLE HOUSING ZONE (SN) AND TO REZONE BLOCK 33803, LOT 53 INTO THE SN ZONE

WHEREAS, the Municipal Land Use Law ("MLUL") of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Borough desires to create additional zones that allow for the construction of housing to be occupied by very-low, low- or moderate-income individuals or households with special needs that will assist Lincoln Park in satisfying a portion of its affordable housing obligation; and

WHEREAS, the Borough finds the area that is proposed to be rezoned adequately addresses its unmet need obligation through the use of an appropriate mechanism as specified per N.J.A.C. 5:93-4.2(-f).

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Section 28-2.1, List of Zones, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby amended to include the following:

SN Special Needs Affordable Housing Zone

SECTION TWO. Article XII, Reserved, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park is hereby amended and supplemented by the addition of the following:

ARTICLE XII.C.

SPECIAL NEEDS AFFORDABLE HOUSING ZONE (SN)

§ 28-12C.1. S N - Special Needs Affordable Housing Zone (SN).

a. Purpose. The purpose of this zoning district is to encourage the construction of housing to be occupied by very-low, low- or moderate-income individuals or households with special needs as a second principal use on the property at Block 33803, Lot 53.

b. Principal Permitted Uses.

1. Governmental facilities devoted to police, fire, ambulance, emergency medical services and similar governmental functions.
2. Special needs uses as regulated in 40:55D-66.1 of the Municipal Land Use Law.
3. More than one principal use on the lot.

c. Accessory Uses. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the Zone.

d. Prohibited Uses. Any use not specifically permitted herein is prohibited.

e. Building area, external yard and bulk requirements shall be as follows:

1. Same as the R-15 district.

f. Site Design Requirements. Access shall be permitted from the adjoining municipal building lot without the need for variance relief.

SECTION THREE. The Zoning District for the following properties listed by block and lot shall be changed as follows:

Block	Lot	Current Zone	to	New Zone
33803	53	R-15		SN

SECTION FOUR. The Zoning Map of the Borough of Lincoln Park, Morris County, New Jersey is hereby amended to reflect the Zoning Map revisions set forth in this Ordinance.

SECTION FIVE. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION SIX. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION SEVEN. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION EIGHT. This Ordinance shall take effect as provided by law.

ATTEST:

_____
Joseph Gurkovich, Council President

_____
Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

_____
Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**

Ordinance: #1,721
Introduced: 2-17-2026
Adopted: 3-2-2026
Effective: 3-22-2026

ORDINANCE 10-26

BOROUGH OF LINCOLN PARK
NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Council of the Borough of Lincoln Park held on February 17, 2026 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on March 2, 2026 at 7:00 p.m. or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE 10-26

AN ORDINANCE OF THE BOROUGH OF LINCOLN PARK, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, REPEALING ARTICLE XIX, AFFORDABLE HOUSING, AND ARTICLE XX, DEVELOPMENT FEES, OF CHAPTER 17, LAND DEVELOPMENT REVIEW, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK TO ESTABLISH A NEW AFFORDABLE HOUSING ORDINANCE

WHEREAS, on March 20, 2024, Governor Murphy signed P.L. 2024, c.2., into law, which established a new framework for determining and enforcing municipalities' affordable housing obligations under the Mount Laurel doctrine and the amended Fair Housing Act (the "Amended Act"); and

WHEREAS, the Borough of Lincoln Park (the "Borough" or "Lincoln Park") filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Amended Act") on January 23, 2025; and

WHEREAS, the Court entered an order on April 29, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of 15 units and a Prospective Need of 175 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, on June 19, 2025, the Lincoln Park Planning Board adopted a Housing Element and Fair Share Plan prepared by RicciPlanning LLC, dated June 8, 2025 ("2025 HEFSP") to address the Borough's Fourth Round affordable housing obligations; and

WHEREAS, the Borough filed its 2025 HEFSP on June 20, 2025 on eCourts; and

WHEREAS, Fair Share Housing Center ("FSHC") and White Rock NJ, LLC filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's 2025 HEFSP on September 2, 2025; and

WHEREAS, representatives of the Borough and FSHC entered into a Mediation Agreement dated December 30, 2025 that resolved the issues raised in both of the challenges subject to, among other requirements, the adoption of an updated Affordable Housing Ordinance; and

WHEREAS, the Borough desires to repeal its current Affordable Housing Ordinance and current Development Fee Ordinance and to adopt a new Affordable Housing Ordinance that is consistent with applicable laws governing the creation, use, occupancy, administration and preservation of very low-, low- and moderate-income affordable housing units and governing the collection, maintenance and expenditure of both non-residential and residential development fees, which fees are to be used to assist the Township in satisfying its affordable housing obligation.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Article XIX, Affordable Housing, and Article XX, Development Fees, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park are hereby repealed in their entirety and replaced with the following.

ARTICLE XIX AFFORDABLE HOUSING

§ 17-19.1 **Purpose, Applicability & Interpretation**

1. This Article of the Code sets forth regulations regarding the creation, use, occupancy, administration and preservation of very low-, low- and moderate-income affordable housing units in the Borough of Lincoln Park consistent with the Mount Laurel doctrine; the New Jersey Fair Housing Act, as amended by P.L. 2024, c.2, N.J.S.A. 52:27D-301 et seq., (hereinafter the "Act," "FHA" or FHA-2"); the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., ("Affordable Housing Rules"), and the Housing and Mortgage Finance Agency's (HMFA) Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the municipality's Fourth Round Housing Element and Fair Share Plan ("HEFSP").

2. This Article is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units in accordance with applicable statutory and regulatory requirements. This Article of the Code shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit-financed developments shall adhere to the provisions set forth below in item 5.c. below.

3. The Borough of Lincoln Park Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.

4. This Article implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of the Mt. Laurel doctrine, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.

5. Applicability

   a. Except where specifically exempted hereinafter, the provisions of this Article shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.

   b. Except where specifically exempted hereinafter, this Article shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, as well as any unanticipated future development or redevelopment projects that will include, are proposed to provide or required by the municipality to provide very low-, low- and moderate-income housing units.

   c. Projects receiving federal Low Income Housing Tax Credit financing shall be required to follow the UHAC unless exempt pursuant to N.J.A.C. 5:80-26.1, including but not limited to developments with anticipated funding from the Federal Low-Income Housing Tax Credit (LIHTC) pursuant to Section 42 of the Internal Revenue Code. Developers, landlords and program sponsors shall be required to comply with administration and affirmative marketing of the affordable units within such developments.

   d. A waiver from any provision of this Article may be granted by the County-level Mount Laurel Judge, the Program or any trial court if it would advance the interests of low- and moderate-income households or if strict compliance would cause an unreasonable result.

6. Interpretation

a. In the event of any ambiguity, the provisions of this Article shall be interpreted and liberally construed in favor of the Municipality.

b. For any subject matter that is not otherwise addressed hereinafter, or is not otherwise covered by the Act, the Affordable Housing Rules or the UHAC, the Municipality may rely upon the provisions of COAH's prior round regulations at N.J.A.C. 5:93 and 5:97 that were deemed valid by binding Court precedent and that are most favorable to the municipality.

c. The provisions of the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the municipality's Fourth Round HEFSP, as set forth in Subsection A 1 above, shall supersede and take precedence over the provisions of this Article.

7. Reservation of Rights

a. The Borough of Lincoln Park reserves the right at any time to add to, remove from, or modify any provision of this Article provided that such addition, removal or modification is not inconsistent with the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; or the municipality's Fourth Round HEFSP, as set forth in Subsection A 1 above.

§ 17-19.2 **Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Assisted living residence" means a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.
"Barrier-free escrow" means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

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

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

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

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

"Commissioner" means the Commissioner of the Department of Community Affairs.

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

"Compliant municipality" means a municipality that is in the process of seeking compliance certification pursuant to the directives issued by the Administrative Office of the Courts, has obtained compliance certification, or who has filed for, or has obtained, a Judgment of Compliance, Order for Repose, or other court approval pursuant to the Act.

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

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

"DCA" and "Department" mean the State of New Jersey Department of Community Affairs.
"Deficient housing unit" means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement, and/or load-bearing structural systems.

"Department" means the New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

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

"Exit sale" means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.
"Exclusionary zoning litigation" means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Non-residential development" means:

> Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;
>
> Hotels, motels, vacation timeshares, and child-care facilities; and
>
> The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

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

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

"Payment in lieu of constructing affordable units" means the prior approval of the payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development, as was modified by P.L. 2024, c.2.

"Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

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

"Person with a disability" means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

"Price differential" means the difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

"Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including but not limited to any affordable unit that: (1) was created pursuant to a judgment, court order, builder's remedy, or settlement resolving any Mount Laurel or exclusionary zoning litigation prior to March 20, 2024; (2) received substantive certification from COAH; (3) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (4) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1), (2) or (3) above; or (5) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State Development and Redevelopment Plan" or "State Plan" means the plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c. 398 (C.52:18A-196 et

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

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

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

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

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

"Treasurer" means the Treasurer of the State of New Jersey.

"UHAC" means the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.1 et seq.

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

"Unit type" means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2 units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

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

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

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

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

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

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

§ 17-19.3 **Monitoring and Reporting Requirements**

1. In accordance with the Act and N.J.A.C. 5:99 et seq., the Borough is required to provide updated affordable housing monitoring activity and affordable housing trust fund activity through the Department's Affordable Housing Monitoring Service on or before February 15 annually.

2. All developers, program sponsors and landlords of developments or projects containing affordable housing in the Borough shall be required to provide all necessary information related to the status of construction and occupancy of each affordable unit within the respective developer, program sponsor or landlord's development to the municipality's Municipal Housing Liaison by no later than January 2 annually for the previous year.

§ 17-19.4 **Borough-wide Mandatory Set-Aside**

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

2. Nothing in this section shall preclude the Borough or the Borough Planning Board or Zoning Board of Adjustment from imposing an affordable housing set-aside of at least 20% on any other application for development or redevelopment not listed in paragraph 1 above.

3. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this Article.

4. All such affordable units shall be governed by this Article, the controls on affordability including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.

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

6. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.

7. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.

8. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall round the set-aside upward to construct a whole additional affordable unit

§ 17-19.5 **New Construction**. Per the definition of "New Construction," this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

1. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.

2. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

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

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

   a. Design of 100 percent affordable developments:

      i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
      ii. Each bedroom in each restricted unit must have at least one window.
      iii. Restricted units must include adequate air conditioning and heating.

   b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.

      i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
      ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
      iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
      iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
      v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
      vi. Each bedroom in each restricted unit must have at least one window.
      vii. Restricted units must be of the same unit type as market-rate units within the same building.
      viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted for-sale units shall comply with the below:

i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
vii. Each bedroom in each restricted unit must have at least one window; and
viii. Restricted units must include adequate air conditioning and heating.

4. Utilities.

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

b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).

5. Low/moderate split and bedroom distribution.

a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.

b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.

c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.

d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:

i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;

ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded up, of the total number of low- and moderate-income units.
iv. At least 30% of all low- and moderate-income units, rounded up, shall be two-bedroom units.
v. At least 20% of all low- and moderate-income units, rounded down, shall be three-bedroom units.
vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.

e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.

6. Accessibility requirements.

a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:

i. An adaptable toilet and bathing facility on the first floor;
ii. An adaptable kitchen on the first floor;
iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
v. If one or more of the foregoing requirements in b.i. through b.iv. above cannot be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

(a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
(b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
(c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
(d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.

(e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.

vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

§ 17-19.6 **Affordable Housing Programs**

Pursuant to the Act and the UHAC regulations at N.J.A.C. 5:80-26.1 et seq., the Borough shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions. By way of example only, the following is a non-exhaustive list of potential crediting mechanisms the Borough may rely upon:

1. Rehabilitation Programs
2. Accessory Apartment Program
3. Market to Affordable Program
4. Extension of Expiring Controls in accordance with prevailing law.
5. Assisted Living Residence
6. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).

§ 17-19.7 **Regional Income Limits**.

1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
2. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

§ 17-19.8 **Maximum Initial Rents and Sales Prices.**

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.

4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.

5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.

6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.

7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:

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

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

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

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

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

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

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

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

   c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.

9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as

determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.

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

§ 17-19.9 **Affirmative Marketing**.

1. Upon approval by a court, developers, program sponsors and landlords of affordable developments shall be required to comply with the Borough's most recently approved Affirmative Marketing Plan with respect to the marketing of initial sales and rentals and resales and re-rentals of affordable units within the Borough.

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 all marketing activities toward Housing Region 2 and is required to be followed throughout the period of deed restriction.

3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.

    a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.

    b. There shall be a regional preference for all households that live and/or work in Housing Region 2 comprising Essex, Morris, Union and Warren Counties.

    c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.

    d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.

4. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.

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

6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.

7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website in accordance with applicable law, as well as the following community and regional organizations: Fair Share Housing Center; the Latino Action Network; East Orange NAACP; Newark NAACP; the Morris County Housing Alliance; Morris County NAACP; Housing Partnership for Morris County; Community Access Unlimited; Northwest New Jersey Community Action Program. Inc; Homeless Solutions of Morristown: and the Supportive Housing Association. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.

8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

§ 17-19.10 **Selection of Occupants of Affordable Housing Units**.

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

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

§ 17-19.11 **Occupancy Standards.**

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

   a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;

   b. Provide a bedroom for every two adult occupants;

   c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and

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

§ 17-19.12 **Control Periods for Restricted Ownership Units and Enforcement Mechanisms**.

1. The initial control periods for restricted ownership units shall be for a period of at least 30 years and in accordance with the UHAC, as may be amended and supplemented, with the Borough reserving the right to extend the affordability control period for an additional period of time thereafter.

2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of at least 10 years.

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

4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.

5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this section until the owner gives notice of their intent to make an exit sale, at which point:

   a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or

   b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.

   c. Notwithstanding the foregoing, nothing herein shall eliminate the right of the municipality to extend the affordability controls of any 95/5 units.

6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.

7. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent an affordable housing deed restriction approved by the Borough, a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Article, 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.

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

10. Extensions of Affordability Controls on Ownership Units.

   a. The Borough retains the right preserve its existing and any newly constructed very low-income, low-income and moderate-income affordable ownership units located within the Borough by extending the initial affordable control period for an additional period of time beyond the original control period established in any judgment of compliance, judgment of repose or other judgment, court order, grant of substantive certification, master deed, affordable housing plan, affordable housing agreement, deed restriction, restrictive covenant, declaration of restrictive covenants, public offering statement, contract, settlement agreement, grant agreement, developer's agreement or other agreement. The Borough retains and reserves this right extend the affordability controls on all existing and any newly constructed affordable ownership units within the Borough regardless of the date the affordable unit(s) was/were created.

   b. The right of the Borough to extend the affordability controls on any restricted ownership unit shall not otherwise be limited or circumscribed by any term, condition or provision contained within any master deed, affordable housing plan, affordable housing agreement, deed restriction, restrictive covenant, declaration of restrictive covenants, public offering statement, contract, settlement agreement, grant agreement, developer's agreement or other agreement.

   c. The Borough shall exercise such right by ordinance adopted by the Borough Council.

d. During the initial control period and any extended control period, no seller of a restricted unit in the Borough may utilize the repayment option or exit sale, but may sell the restricted unit to another qualifying household at the then applicable maximum resale price determined by the Agency.

§ 17-19.13 **Price Restrictions for Restricted Ownership Units and Resale Prices.**

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

   a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.

   b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.

      i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price is the most recent non-exempt purchase price.
      ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3.

   c. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:

      i. Those that render the unit suitable for a larger household or the addition of a bathroom.
      ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d).

   d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.

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 Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 17-19.14 **Buyer Income Eligibility.**

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

for occupancy by households with a gross household income less than 80% of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.

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, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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

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

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

   d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the mortgage payments.

§ 17-19.15 **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 Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

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

§ 17-19.16 **Control Periods for Restricted Rental Units.**

1. Control periods for units that meet the definition of prior round units shall be pursuant to the UHAC and shall remain subject to the requirements of this Article for a period of at least 30 years, with the Borough reserving the right to extend the affordability controls for an additional period of time in accordance with the Act and UHAC.

2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Article for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits shall comply with applicable law.

3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.

4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.

5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.

6. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.

7. A restricted rental unit shall remain subject to the affordability controls of this Article 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;

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

   d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

8. The Borough retains the right and power to preserve all existing and any newly constructed very low-income, low-income and moderate-income rental units constructed in the Borough on or after October 1, 2001 by extending the affordable control period for an additional period of time beyond the original control period established in any judgment of compliance, judgment of repose or other judgment, court order, grant of substantive certification, master deed, affordable housing plan, affordable housing agreement, deed restriction, restrictive covenant, declaration of restrictive covenants, public offering statement, contract, settlement agreement, grant agreement, developer's agreement or other agreement.

   a. The right of the Borough to extend the affordability controls on any restricted rental unit shall not otherwise be limited or circumscribed by any term, condition or provision contained within any master deed, affordable housing plan, affordable housing agreement, deed restriction, restrictive covenant, declaration of restrictive covenants, public offering statement, contract, settlement agreement, grant agreement, developer's agreement or other agreement.

   b. The Borough shall exercise such right to extend the affordability controls by ordinance adopted by the Borough Council.

§ 17-19.17 **Rent Restrictions for Rental Units; Leases and Fees.**

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.

2. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the

full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.

3. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

   a.. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.

4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Article.

5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.

6. Pet fees may not exceed $30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.

7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.

8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

§ 17-19.18 **Tenant Income Eligibility.**

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:

   a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.

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

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

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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

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

   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 any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 17-19.19 **Municipal Housing Liaison.**

1. The Municipal Housing Liaison shall be approved by municipal resolution.

2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.

3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:

a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.

b. The oversight of the Affirmative Marketing Plan and affordability controls.

c. When applicable, overseeing and monitoring any contracting Administrative Agent.

d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.

e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.

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

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

h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.

i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.

j. Listing on the municipal website contact information for the MHL and Administrative Agents.

§ 17-19.20 **Administrative Agent.**

1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.

2. The fees for administrative agents shall be paid as follows:

a. Administrative agent fees related to rental units shall be paid by the developer/owner.

b. Administrative agent fees related to initial sale of units shall be paid by the developer.

c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.

d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.

3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.

4. The role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:

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

b. Affirmative marketing:

i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.

c. Household certification.

i. Soliciting, scheduling, conducting and following up on interviews with interested households.
ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the firm, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.

d. Affordability controls.

i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
ii. Ensuring that the removal of the deed restrictions and cancellation of mortgage notes are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.

e. Records retention.

i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.

f. Resales and re-rentals.

i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.

g. Processing requests from unit owners.

i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this Article.
ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
iii. Notifying the municipality of an owner's intent to sell a restricted unit.
iv. Making determinations on requests by owners of restricted units for hardship waivers.

h. Enforcement.

i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.

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

§ 17-19.21 **Responsibilities of the Owner of a development containing affordable units.**

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

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

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

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

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

e. A projected construction schedule.

f. The location of any common areas and elevators.

g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.

2. In addition to subsection 1. above, the owner of rental developments containing affordable rental units subject to this Article or the assigned management company thereof shall:

a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.

b. Provide to the administrative agent a description of any applicable fees.

c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.

d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.

e. Provide to the administrative agent a proposed form of lease for any rental units.

f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive that the tenant selection criteria for applicants for non-restricted units.

g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

3. In addition to subsection 1. above, the owner of affordable for-sale developments containing affordable for-sale units subject to this Article or the assigned management company thereof shall provide the administrative agent:

a. Proposed pricing for all units, including any purchaser options and add-on items.

b. Condominium or homeowner association fees and any other applicable fees.

c. Estimated real property taxes.

d. Sewer, water, trash disposal, and any other utility assessments.

e. Flood insurance requirement, if applicable.

f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§ 17-19.22 **Enforcement of Affordable Housing Regulations**

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

2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or

tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

   i. A fine of not more than $2000 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
   ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
   iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be $5,000, the fine for the second offense of noncompliance shall be $10,000, and the fine for each subsequent offense of noncompliance shall be $15,000.

4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

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

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

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

   d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire

title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.

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

f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this Article, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this Article if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.

7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this Article, all of the rights and remedies available at law and in equity for the enforcement of this Article, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.

8. Appeals

   a. Appeals from all decisions of an administrative agent appointed pursuant to this Article must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

§ 17-19.23 **Development Fees.**

1. Purpose

   a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Article shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

2. Basic Requirements

   a. The Borough previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.

   b. The Borough shall not spend development fees until the court has approved a plan for spending such fees.

3. Residential Development Fees

   a. Imposed fees

      i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
      ii. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
      Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

      i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
      ii. Developments that have received preliminary or final site plan approval prior to the adoption of this Article and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
      iii. Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
      iv. Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

4. Non-Residential Development Fees

   a. Imposition of fees

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

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

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

c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.

d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

5. Collection Procedures

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

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

c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.

d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.

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

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

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

h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

6. 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 that Board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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 municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

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

i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
iii. Rental income from municipally operated units;
iv. Repayments from affordable housing program loans;
v. Recapture funds;
vi. Proceeds from the sale of affordable units; and
vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.

c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.

d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:

i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
iv. Failure to submit accurate monitoring reports pursuant to this subArticle within the time limits imposed by the Act, this Article, and/or the Division;
v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
vi. Revocation of compliance certification or a judgment of compliance and repose;
vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.

e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

8. Use of Funds

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

b. Funds shall not be expended to reimburse the municipality for activities that occurred prior to the authorization of a municipality to collect development fees.

c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.

i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.

d. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

9. Monitoring

a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.

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

11. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

SECTION TWO. A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board ("Planning Board") for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

SECTION THREE. All ordinances of the Borough of Lincoln Park that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR. If any 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.

SECTION FIVE. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

ATTEST:

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Joseph Gurkovich, Council President

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Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

_____
Mayor Dr. David Runfeldt

INTRODUCED:	**February 17, 2026**
PUBLISHED IN DAILY RECORD:	**February 18, 2026**
PUBLIC HEARING AND ADOPTION:	**March 2, 2026**
PUBLISHED IN DAILY RECORD:	**March 3, 2026**
EFFECTIVE:	**March 22, 2026**