

PLANNING BOARD
TOWNSHIP OF LOPATCONG
WARREN COUNTY, NEW JERSEY
RESOLUTION ADOPTING AMENDMENTS TO THE MASTER PLAN
HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Township of Lopatcong Planning Board has adopted a Master Plan pursuant to N.J.S.A. 40:55D-28 to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare; and

WHEREAS, included in the Master Plan is a Housing Element and Fair Share Plan; and

WHEREAS, the Planning Board has deemed it appropriate to update and amend the Fair Share Plan and Housing Element; and

WHEREAS, an amendment to the Fair Share Plan and Housing Element has been prepared by George A. Ritter, P.P./AICP, dated May 13, 2015; and

WHEREAS, notice of the public hearing was noticed, advertised and held in accordance with the Open Public Meetings Act; and


WHEREAS, the Planning Board conducted a public hearing on this matter on May 27, 2015 after providing notice as required by N.J.S.A. 40:55D-22 and 12; and

WHEREAS, after careful consideration and discussion the Planning Board determined that it was in the best interests of the Board to adopt the amendments to the Fair Share Plan and Housing Element.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren, State of New Jersey, does hereby adopt the amendment to the Fair Share Plan and Housing Element, prepared by George A. Ritter, P.P./AICP, dated May 13, 2015.

CERTIFICATION

I, Margaret Dilts, do hereby certify the above to be a true correct copy of a Resolution regularly and duly adopted by the Planning Board of the Township of Lopatcong at a duly called meeting of the Land Use Board held on May 27, 2015.


MARGARET DILTS, Clerk
Lopatcong Township Planning Board

PLANNING REPORT

PROPOSED MASTER PLAN AMENDMENT

Housing Element

Lopatcong Township Warren County, New Jersey

Prepared for: Lopatcong Township Planning Board

Under the supervision of:

George A. Ritter, P.P./AICP
Professional Planner
NJ License #2126
AICP #017420

May 13, 2015

Adopted: May 27, 2015

Table of Contents

INTRODUCTION1

GOALS AND OBJECTIVES.....2

HIGHLANDS RMP HOUSING AND EMPLOYMENT PROJECTIONS.....3

EXISTING CONDITIONS3

Inventory of Housing Stock3

Demographic Characteristics4

Existing and Future Employment Characteristics5

Existing and Planned Infrastructure7

Utilities.....7

Transportation7

Zone Plan.....8

Constraints to Development9

The New Jersey State Development and Redevelopment Plan (SDRP).....9

The Highlands Water Protection and Planning Act9

The New Jersey Department of Environmental Protection (DEP) 10

AFFORDABLE HOUSING NEED 10

Second Round Fair Share Obligation (1987-1999)..... 10

Round Three Fair Share Obligations (1987-2024) 11

Certified Credits 12

Pending Credits 12

ANALYSIS AND RECOMMENDATIONS 14

Future Residential Development 14

Future Employment and Business Development..... 15

Affordable Housing Opportunities 15

RELATIONSHIP TO THE RMP..... 16

FAIR SHARE PLAN..... 17

CERTIFICATION 17

THE HOUSING ELEMENT

INTRODUCTION

The overriding policy of the Housing Element of the Master Plan is to ensure provision of a variety of housing opportunities sufficient to address the needs of the community and the region, including the need for affordable housing, while at the same time respecting the density limits of the Highlands Element Land Use Plan, the resource constraints applicable to the Highlands Area, and the numerous other policies, goals and objectives set forth in the Township Master Plan. The Housing Plan furthers MLUL purposes of zoning (at N.J.S.A. 40:55D-2, specifically 2a., 2e., 2g., 2l.) and fulfills the requirements of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) which in keeping with New Jersey Supreme Court doctrine, as expressed in the "Mount Laurel" decisions, recognizes that every municipality in a "growth area" has a constitutional obligation to provide, through its land use regulations, a realistic opportunity for provision of a fair share of its region's present and prospective needs for housing for low- and moderate-income families.

The most recent Housing Element for Lopatcong Township was adopted on May 26, 2010. That plan was submitted to the Council on Affordable Housing (COAH or Council) as part of the Township's third round petition for substantive certification. The 2010 Housing Element utilized COAH's methodology for calculating fair share of prospective need pursuant to their Substantive Rules (N.J.A.C. 5:97) that became effective on June 2, 2008. COAH required each municipality to determine its obligation using information supplied by COAH for the prior round and projected need calculated by the municipality. The fair share obligation was based on three elements: Fair share of prospective need calculated for residential and non-residential development for the years 2004 to 2014; rehabilitation share calculated by COAH; and the municipality's unanswered prior obligation for new construction also determined by COAH. The 2008 substantive rules (N.J.A.C. 5:97) were ruled invalid by the Supreme Court in a decision issued on September 26, 2013, primarily because the fair share of prospective need methodology employed by COAH did not comport to the requirements of the Fair Housing Act (FHA). The Court ordered the Council to prepare new substantive rules using methodologies engaged in preparation of the first and second rounds. During the intervening years that followed adoption of the Housing Element in 2010, COAH made substantive amendments to its rules which led to a suspension of its review for certification and extension of the third round petition deadline.

The Housing Element that follows incorporates provisions that align it with the Highlands Regional Master Plan (RMP) and reflects changes in COAH's third round methodology set forth in new substantive rules proposed on June 2, 2014 (N.J.A.C. 5-99). Those rules provide the municipality's rehabilitation share and unanswered prior new construction obligation as established by the Council. With regard to affordable housing needs for the period that covers the years 2014 through 2024, COAH has provided those municipalities that have chosen to conform to the RMP with a projected need obligation based upon development capacity provided by the Highlands Council in its Municipal Build-Out Report completed in 2009.

Employment characteristics have been updated in this Housing Element with respect to recent trends in job creation. Further, this plan complies with requirements of the Fair Housing Act, the Municipal Land Use Law (MLUL), and the adopted New Jersey Council on Affordable Housing Procedural Rules and Substantive Rules for rounds two and three, and third round rules proposed on June 2, 2014.

Finally, the plan presented here provides an analysis of Lopatcong Township's obligation to provide its fair share of the region's affordable housing need. Lopatcong Township has an obligation of 107 units comprised of no rehabilitation share units; an unanswered prior obligation of 56 units of new construction; and a 51-unit fair share of prospective need requirement. The Lopatcong Township Fair Share Plan that accompanies this Housing Element provides details of the techniques that the Township intends to employ to meet its remaining obligations.

GOALS AND OBJECTIVES

In furtherance of Township efforts to ensure sound planning, this Plan incorporates the following goals and objectives with respect to future housing in the Highlands Area:

1. To the extent feasible, the zone plan will guide anticipated new residential development into compact, center-based projects.
2. To provide a realistic opportunity for the provision of the municipal share of the region's present and prospective needs for housing for low- and moderate-income families.
3. To the maximum extent feasible, to incorporate affordable housing units into any new residential construction that occurs within the Highlands Area including any mixed use, redevelopment, and/or adaptive reuse projects.
4. To preserve and monitor existing stocks of affordable housing.
5. To reduce long term housing costs through:
 - a. The implementation of green building and energy efficient technology in the rehabilitation, redevelopment and development of housing. Recent innovations in building practices and development regulations reflect significant energy efficiency measures, and therefore cost reductions, through building materials, energy efficient appliances, water conservation measures, innovative and alternative technologies that support conservation practices, and common sense practices such as recycling and re-use.
 - b. The promotion of the use of sustainable site design, efficient water management, energy efficient technologies, green building materials and equipment, and retrofitting for efficiencies.
 - c. Maximizing the efficient use of existing infrastructure, through such means as redevelopment, infill and adaptive reuse.
6. To use a smart growth approach to achieving housing needs:
 - a. Use land more efficiently to engender economically vibrant communities, complete with jobs, houses, shopping, recreation, entertainment and multiple modes of transportation.

- b. Support a diverse mix of housing that offers a wide range of choice in terms of value, type and location. In addition, seek quality housing design that provides adequate light, air, and open space.
- c. Target housing to areas with existing higher densities and without environmental constraints, within walking distance of schools, employment, services, transit and community facilities with sufficient capacity to support them.

HIGHLANDS RMP HOUSING AND EMPLOYMENT PROJECTIONS

The Housing Element is herewith modified to incorporate RMP provisions as the basis for determining Lopatcong Township's capacity to grow in terms of new housing units. The Township's development capacity projections have been calculated using the Highlands Council Municipal Build-Out Analysis results for the Township, including consideration of water availability, septic system yield, and water and wastewater utility capacity. The final analysis determined developable land and the ability to accommodate affordable housing. The Township's capacity to develop results in a buildable limit that is required to determine the fair share of prospective need component of the overall Fair Share Housing obligation.

Pursuant to COAH Rules set forth in N.J.A.C. 5:93 and 5:99 – adopted second round and proposed round three rules – in addition to the Fair Share of Prospective Need, the overall housing obligation includes a Rehabilitation Share and the Unanswered Prior Obligation; each of these offset in the final analysis by eligible credits, reductions and adjustments, as appropriate.

EXISTING CONDITIONS

The following sections provide information regarding the condition of existing housing stock in Lopatcong Township, the prospects for employment in Lopatcong Township, and the need for affordable housing in Lopatcong Township. US Census data, including the 2010 Census and 2009-2013 American Community Survey 5-Year estimates, and employment statistics for 2013 that were compiled by the New Jersey Department of Labor and Workforce Development, have been used in the preparation of this Housing Element.

Inventory of Housing Stock

According to the 2010 Census, Lopatcong Township has 3,420 total housing units – 3,136 occupied and 284 vacant units. Of the occupied units, 77% are owner-occupied. In 2010, approximately 81% of the housing units in the Township were single-family, compared to 82% for all of Warren County. Most housing in Lopatcong Township is owner-occupied (77%) as compared with 75% countywide. Of the Township's 3,420 housing units, 56 % had three bedrooms or more.

Dwellings in Lopatcong are also relatively new: 69% were constructed since 1970 and 39% of the homes were built and occupied between 2000 and 2014. Housing in Lopatcong Township is more affordable than in the County as a whole: The median value of an owner-occupied house in the Township was \$266,200, about \$4,900 less than the \$271,100 countywide median value.

Gross rent in Lopatcong Township is more than the countywide median gross rent – \$1,166 vs. \$988. Rent as a percentage of household income, an indicator of affordability, was also more in

Lopatcong Township than Warren County (46.7% vs. 38.9% of households spent 35% or more of household income on rent). The average household size for a renter-occupied housing unit is 1.91.

Indicators of substandard housing in need of rehabilitation include: Crowding (more than 1 person per room), lack of complete plumbing facilities, and lack of kitchen facilities. As reported by the U.S. Census Bureau, all occupied housing units in Lopatcong Township had one or less persons per room: No houses lacked complete plumbing facilities or complete kitchen facilities and 29 had no telephone service available.

Demographic Characteristics

Lopatcong Township's residentially zoned area is characterized by a mix of older suburban neighborhoods that developed as an outgrowth of neighboring Phillipsburg; large single-family subdivisions occupied between 1980 and 2000; smaller single-family subdivisions built and occupied post 2000; and medium-density multi-family development consisting of a 414-unit development known as Warren Heights, which was completed in 2013 and Overlook at Lopatcong that contains 386 ownership units.

The undeveloped residentially zoned areas are largely open space areas comprised of farmland and public parks associated with the ridges of Marble Hill near the Delaware River and Scott's Mountain in the northeast quadrant of the Township. Lopatcong Township contains a great variety of housing types, including small-lot detached single-family dwellings and multi-family housing, generally located in the more developed neighborhoods of Brakely Park, Rose Hill Heights, Morris Park, and Delaware Park. These neighborhoods have infrastructure systems that support moderate and high-density housing and are nearing build-out. Rural areas of the Township that do not provide sanitary sewer infrastructure have generally developed as large-lot single-family communities mixed with open space comprised of public lands and farms.

Starting in the year 2000, the pace of housing construction in Lopatcong increased dramatically. Over the period between the beginning of 2000 and the end of 2005, a total of 926 certificates of occupancy (CO) were issued — an average of 154 per year. That compares to an average of 49 COs per year for the four-year period preceding 2000. The completion of a single-family community known as Country Hills, the build-out of Overlook at Lopatcong, a 386-unit multi-family inclusionary development, and partial development of Warren Heights, a 12/DU per acre condominium project, were the primary contributors to that increase.

Housing starts have been on the decline since 2006 due to market saturation and a national economic recession that negatively affected the local economy. The pace of housing construction slowed to 45 units per year on average from 2006 to the end of 2014, a decrease of 70 percent as compared to the 2000-2006 pace. During that period, of the 403 housing units issued a certificate of occupancy, more multi-family units were built than single-family dwellings — 206 versus 197 — contributed by completion of Warren Heights.

Over the next ten years, between 2015 and 2024, the annual rate of residential development will most likely fluctuate with changing market conditions. The primary contributor of new housing units will likely be a multi-family inclusionary project approved in 2013 — Sycamore Landing —

comprised of 247 apartments, 50 of which are to be priced so they are affordable to low- and moderate-income households including at least 5 very low-income households.

Conformance with the Highlands RMP will not have a significant impact on new residential development in the Township. Several factors lead to that conclusion. In terms of new development, the amount of developable vacant land in the Township that is zoned for residential use is limited and is currently zoned by the municipality for low density development with the exception of the MFI Zone. As for redevelopment, the existing residential neighborhoods are relatively young places. Over half of the homes in Lopatcong were built after 1970; therefore, any significant redevelopment is likely to be several decades in the future.

The majority of new housing that will be occupied in the decade beginning in 2015 has already been approved and development is underway, Sycamore Landing notwithstanding. Construction began on a 158-unit age restricted active adult community known as Delaware Crossing at Morris Park in 2004. Most of those units remain unsold and are not expected to be occupied for several years. Scenic Ridge Estates, comprised of 54 single-family lots, was approved in 2003 and it is anticipated that the community will be fully developed by the end of 2011. Other residential development will likely consist of in-fill lots in the existing older neighborhoods and development of single-family homes on two-acre and larger lots. The proposed 247-unit Sycamore Landing multifamily project that will include affordable housing units has not been started and completion will undoubtedly be several years in the future.

The 2010 Census population of Lopatcong Township is 8,014 — 39% higher than the population count for 2000, which was 5,765. The dramatic increase in population between 2000 and 2010 corresponds to the equally dramatic increase in new housing units occupied during that period. During that decade, 1,198 housing units were added to the Township's housing stock, which amounts to 35% of all housing units in Lopatcong as reported in the 2010 Census.

In 2010 there were 3,136 occupied housing units, with an average household size of 2.69 persons/DU for owner-occupied homes. Renter-occupied household size is 1.91 persons/DU. Since the 2000 Census and up until the end of 2014, approximately 1,329 new dwellings have been occupied in the Township.

Household income is one measure of a community's wealth. Lopatcong Township's 2013 median household income of \$76,219 was 8% higher than Warren County's median household income of \$70,912.

Existing and Future Employment Characteristics

Lopatcong Township is a suburb of the Town of Phillipsburg, which is the major employment center for the area. The Township has few industries and relies mainly on retail trade and local service businesses for private sector employment opportunities. The total number of reported businesses in Lopatcong Township in 2013 was 33. There were 582 jobs associated with those 33 businesses. Local government employment in 2013 accounted for 199 jobs or approximately 25% of the 781 covered jobs in the Township.

The Township's limited job opportunities and its relatively small contribution to the regional employment base are represented in the employment figures for 2013. Lopatcong Township's 781 jobs represented approximately 2.3% of Warren County's 33,828 jobs.

The overall employment trend in Lopatcong Township is headed downward. On the private sector side of the employment picture, both businesses and jobs decreased between 2006 and 2013. In 2013 there were 6 fewer businesses and 211 fewer jobs. However, as the private sector employment base shrunk by 225 jobs or 28% during that period, local government jobs increased by 7.6% from 185 jobs in 2006 to 199 in 2013.

Future business development and job creation will be limited by a lack of infrastructure needed to support major commercial or industrial projects; however, development constraints have been eased as a result of conformance with the RMP. Most of the Township's vacant commercial and industrial zoned land is located south of Route 57. This area is largely zoned ROM Research Office Manufacturing by the Township and it has been the focus of Township leaders as the area where future commercial and industrial growth should take place. The area, which is the largest of three areas zoned ROM, is referred to as the ROM South.

The Highlands Council approved a Lopatcong Highlands Center (Center) designation on January 19, 2012. The Center covers most of the developed area of the Township including the majority of the undeveloped parcels within the ROM South district. Not included in the Center are the ROM West and ROM North districts. This is an important distinction since Center designation increases the likelihood for receiving sewer allocation, which is necessary for most industrial development of medium to large size. In fact, the 2013 Lopatcong Township Wastewater Management Plan (WMP) provides for allocation of the balance of Lopatcong's sewer capacity to the remaining undeveloped parcels located in the Lopatcong Township Highlands Center. Further, the WMP designates the Center area located south of Route 57, which is comprised mostly of the ROM South Zone, as Lopatcong's Future Service Area (FSA).

The ROM South area contains about 173 acres comprised of vacant and agricultural land use: The land has the potential for development of commercial and industrial uses. Of said potentially developable acreage, approximately 86 acres are not included in the FSA leaving about 87 acres that could potentially be served by public sewer. Using an FAR of 0.30, which is the current threshold for the ROM South area located south of the Norfolk Southern Railroad, the gross floor area of buildings associated with commercial use activity that could theoretically be developed is 1,136,916 square feet; however, using the available allocation previously mentioned (83,640 GPD), gross floor area for land uses requiring public sewer would be limited to about 669,000¹ square feet.

The RMP build-out results for Lopatcong Township, which includes resource and utility constraints, indicates that 202 jobs will be created at full build-out. That projection may be low if the Township is successful in its efforts to find a developer for the Ingersoll Rand Site. The current

¹ Projected sewer flow for "commercial use", which includes activities that commonly occur at facilities such as offices, wholesale or retail stores, industrial buildings, factories, and shopping centers, is 0.125 GPD per gross square footage. NJAC 7:9A, Table 7.4(a)

municipal redevelopment plan for this site incorporates commercial development on a regional scale and public facilities while preserving environmentally sensitive areas.

Existing and Planned Infrastructure

Utilities

Public sanitary sewers serve portions of the Township. Public wastewater treatment is provided by the Town of Phillipsburg Sewer Treatment Plant (Phillipsburg STP). Approximately 2,488 parcels representing about 940-acres² of the community (20% of Lopatcong Township) are serviced by sewers. Lopatcong Township has an agreement with the Town of Phillipsburg for treatment of its wastewater at the Phillipsburg Sewer Treatment Plant. The Phillipsburg STP also serves the municipalities of Alpha Borough, Pohatcong Township and Greenwich Township. The Phillipsburg STP has a treatment capacity of 3.5 MGD³. Lopatcong's current allocation is 801,000 GPD⁴ as per agreements with Phillipsburg. The remaining available capacity including the committed flows and the development potential of the Lopatcong Highlands Center is 295,000 GPD⁵.

Pursuant to the Lopatcong Township Wastewater Management Plan (WMP) adopted in 2013 the balance of flow available for use in the Lopatcong Township Highlands Center, which includes the ROM South area, is 39,140 GPD. That figure includes an anticipated flow of 44,500 GPD for a data center proposed to be developed in the ROM South/Center in 2011. The data center developer has since canceled its plans development in Lopatcong; therefore, it appears that instead of a 39,140 GPD available flow balance, the Township may realistically anticipate that the available flow for use in the Center is 83,640 GPD.

Aqua New Jersey Water Company furnishes public water in Lopatcong Township. The current service area covers the entire Township. The utility serves approximately 2,585 customers in Lopatcong. In terms of parcels, this represents about 78% of the Township, but only about 27% of the Township's area. Aqua New Jersey draws its supply from four wells that have a combined capacity of approximately 5.93 million gallons a month (MGM)⁶. The NJ Highlands Council reports that the Phillipsburg division of Aqua NJ has an available capacity of 34.214 MGM⁷. Potable water not provided by Aqua New Jersey is supplied by private wells.

Transportation

Lopatcong Township surrounds several major transportation corridors in the southern area of Warren County. The Route 22/I-78 corridor serves as a major interstate connector between New Jersey and Pennsylvania. Route 57 is a regional connector between Phillipsburg and the Hackettstown/Washington corridor. County Route 519 continues to serve as the major north-

Primary Design Criteria.

² Sewer Service Area Map by Ritter & Plante Associates, LLC dated April 13, 2009.

³ Lopatcong Township Wastewater Management Plan, State of New Jersey Highlands Water Protection & Planning Council 11/19/13, p.12

⁴ Ibid.

⁵ Ibid. p.13.

⁶ Ibid. p.14.

⁷ Ibid. p.13

south collector road. In addition, County Route 646 supplements Route 519 and connects to Route 22 by either Red School Lane or Roseberry Street. Although the intersection of Route 519 and 57 appears adequately signalized for present conditions, roadway capacity is somewhat constricted south of the intersection by the railroad overpass. The intersection of Routes 519 and 22 in Greenwich Township continues to be poorly designed to handle the higher volumes of cross traffic occurring as a result of the growth north of Route 22. Significant improvements to the intersection are required to eliminate an unsafe situation and substantially improve safety conditions.

Red School Lane and Roseberry Street (Phillipsburg) provide access to both local streets in Lopatcong and County Route 646 (Belvidere Road), which connects with Route 519 north of the Township. The properties that abut these streets are for the most part developed. Although both roads have absorbed the increased traffic volumes, there are service level problems where these streets intersect Route 22 and Belvidere Road due to traffic volumes and geometric problems. Red School Lane intersects Route 646 at an oblique angle and should be realigned to improve visibility and allow motorists on Red School Lane to turn more easily.

Zone Plan

Residential zoning districts exist throughout the Township. The area bounded by Route 57 and Route 519, which totally encompasses the Township's Highlands Preservation Area, is zoned for low-density residential uses consisting solely of single-family detached homes. Minimum lot sizes required by current municipal zoning in this portion of the Township range from 3 to 10 acres. West of Route 519 and north of Route 57, the residential zoning varies from low density in the un-sewered areas where conservation is desired to high density where sewer and water infrastructure is available and development is encouraged. Housing types include single-family detached, attached single-family and multi-family garden apartments.

To the south of Route 57, residential zoning is limited to two locations. An area located in the southeast corner of the Township is zoned for inclusion of affordable housing. This zone is completely developed with a project known as Overlook at Lopatcong, a 386-unit inclusionary condominium project. Construction of this development, which contains 22 affordable units, was completed in 2001. A 58-acre parcel zoned for senior citizens is located in the southwest corner of the Township. This inclusionary zone (AARC Zone) requires a set aside for development of affordable housing; however, due to incompatibility with Highlands zoning and lack of public sewer, this district is no longer relevant as-is and should be amended or repealed.

In November of 2009, the Township rezoned a parcel located adjacent to the Phillipsburg Mall for inclusionary housing. Known as the MFI Multi Family Inclusionary Zone, it requires a 20 percent set aside for affordable housing rental units. A developer was granted final approval for a 247-unit multi-family project in 2013 (Sycamore Landing). The development, which has not been issued building permits to-date, includes 50 affordable units.

The primary area of commercial and industrial zoned land occurs along the transportation corridors of routes 57 and 22. Permitted uses in these non-residential zones include offices, warehouses, light manufacturing, and uses compatible with highway and regional commercial

zoning. A planned development overlay district was created in 2004 for lands south of Route 57 between that route and the Township's southern and western borders. The majority of this area is un-sewered; however, designation of a Highlands Center that covers nearly all of the ROM South Zone provides public sewer allocations for approved development and future development in this portion of the Township.

Development and zoning in Lopatcong Township has historically been dictated by three primary factors – proximity to the Town of Phillipsburg, transportation patterns and the availability of sewer and water. Since none of these factors is likely to change in any significant way in the near future, there appears to be no compelling reason to amend the zone plan until full conformance with the RMP is achieved.

Constraints to Development

Regulatory constraints within Lopatcong Township result from State imposed requirements that restrict or discourage development. Namely, the requirements promulgated by the New Jersey Office of Smart Growth as set forth in the State Development and Redevelopment Plan (SDRP); the New Jersey Department of Environmental Protection (DEP) via its land use regulations; and the New Jersey Highlands Council pursuant to the Highlands Regional Master Plan (RMP).

The New Jersey State Development and Redevelopment Plan (SDRP)

The SDRP was adopted in 2001 by the State Planning Commission, which placed Lopatcong Township in four (4) planning areas. These include: Metropolitan (PA1), Suburban (PA2), Rural/Environmentally Sensitive (PA4B) and Environmentally Sensitive (PA5). The PA1 and PA2 categories encompass existing development within the sewer service area (SSA) located primarily to the north of Route 57. The current SSA does not extend south of Route 57 although most of this area of the Township is also PA1 and PA2: The Highlands Center portion of this area is in a Future Sewer Service Area. PA4B covers the rural farmland areas to the northwest of PA1 in the Marble Mountain region and to the northeast of PA1 and PA2 in the Scotts Mountain foothills. This area should be developed at low densities while protecting farmland and environmentally sensitive lands as well as maintaining open space networks, critical habitats and large contiguous tracts of land to further protect PA5 lands. The PA5 lands are associated with the ridges of Marble and Scotts Mountains.

Development in Lopatcong should be directed and concentrated onto PA1 and PA2 lands pursuant to goals and objectives established by the SDRP. Flexible development techniques such as clustering and lot averaging which have been utilized in the R-3/2 and R-5/2 districts help to minimize the disturbance of sensitive areas and incorporate natural features in the project design. The balance of the Township lies within SDRP areas where development is limited under certain circumstances. The Township zone plan corresponds to the SDRP objectives.

The Highlands Water Protection and Planning Act

Signed into law on August 10, 2004, this legislation will have lasting impacts on planning and

zoning in the Highlands Area⁸ of Lopatcong in respect to the Highlands Regional Master Plan (RMP). The Act establishes a comprehensive, long-term approach to the protection and preservation of the water and natural resources of the New Jersey Highlands Region. The Act defines the Highlands Region and divides it into a Preservation Area, where development would be strictly regulated, and a Planning Area where development would not be as strictly controlled. The law establishes the Highlands Water Protection and Planning Council (Highlands Council) whose major responsibilities include preparing and implementing a regional master plan for the Highlands Region, exercising review authority over any local application for development within the Preservation Area, and reviewing publicly-funded capital projects. Lopatcong Township and Warren County will be required to amend their master plans to conform to the RMP.

From a regulatory standpoint, the Act requires 300-foot buffers from all highlands open waters, prohibition of building on slopes of 20% or greater, and limitations on the amount of impervious cover for lots in the Preservation Area. As a consequence of opting-in to the RMP, these restrictions will apply to the Planning Area as well. The full degree of impact will not be known until the Highlands Council completes its guidelines for development. Following recent amendments, the Lopatcong Township Master Plan is consistent with the planning principles found in the Act and the RMP. Land Use & Zoning Regulations will require amendments for compliance with the Highlands RMP.

The New Jersey Department of Environmental Protection (DEP)

The DEP has promulgated regulations to protect Category 1 (C-1) waters within the State. In Lopatcong Township, C-1 waters include the main channel and tributaries of Lopatcong Creek and Merrill Creek. The regulations provide for a 300-foot buffer area where most development is prohibited. This constraint will have the greatest impact on the developable lands that are exempt from the Highlands Act. These restrictions may be pre-empted by more stringent requirements imposed by the RMP for all non-exempt properties. The affected lands located north of Route 57 are developed for the most part and will not be significantly impacted by the buffers.

AFFORDABLE HOUSING NEED

Three components are added together for a determination of a municipality's third round obligation: Rehabilitation share, unanswered prior obligation and fair share of prospective need. Lopatcong Township's affordable housing obligations have been determined by the Council, which published the numbers on in their second and third round rules. With regard to fair share of prospective need, COAH used adjusted growth projections provided by the Highlands Council to calculate the Township's obligation. Following are details of Lopatcong Township's obligations to provide its fair share of the region's low and moderate income housing.

Second Round Fair Share Obligation (1987-1999)

On January 5, 2000, the COAH granted Lopatcong Township substantive certification for round two. The Council established Lopatcong Township's 1987-1999 pre-credited need at 105 affordable units, comprised of 56 new construction units and 49 rehabilitation units. COAH's second round

⁸ All of the Township (Preservation and Planning Areas).

certification included approval of new construction credits totaling 62 units.

The Township’s second round certified Fair Share Plan addresses the rehabilitation need through zoning. The R-MF Zone was established to provide developers with an option to build at higher densities in exchange for providing funds to the Township’s Affordable Housing Trust Fund in lieu of constructing affordable units. One such development – Warren Heights – was approved and the funds generated for affordable housing are being used to administer Lopatcong Township’s rehabilitation program. COAH has recalculated Lopatcong’s rehabilitation share for 2014-2024 to zero (0) units. The Township has completed twelve (12) units under this program; all subsequent to the round two certification and subject to verification by COAH.

The prior round obligation of 56 units is composed entirely of new construction. Lopatcong should receive credits against that obligation for affordable units completed during prior rounds (1 & 2). The credits accrue to two projects included in the Township’s second round certified plan, Lopatcong Senior Housing on Red School Lane, which received credit from COAH as a prior cycle project and Overlook at Lopatcong, which is an inclusionary development built during round two. The total number of COAH certified credits available for the prior round and prospective need obligations is 62 units. Refer to the section on *Credits, Reductions and Adjustments* for more details.

The Township’s fair share obligations and credits as certified by COAH for round two are as follows:

Table 1: Round Two Affordable Housing Need Certified by COAH

Pre-Credited Need	Affordable Units
Rehabilitation	49 units
New Construction	56 units
Round Two Obligation	105 units
Credits	
Pryor Cycle: Lopatcong Area Seniors Housing (Red School Lane)	40 units
Inclusionary Housing: Overlook at Lopatcong	22 units
Round Two Credits	62 units

Round Three Fair Share Obligations (1987-2024)

COAH’s methodology used to calculate Lopatcong Township’s round three affordable housing obligations relies on three components: the rehabilitation share, any remaining unanswered prior obligation for the period 1987-2014, and projected fair share of prospective need for 2014-2024.

Computation of Fair Share Obligation

For round three, the 56-unit pre-credited unanswered prior obligation, comprised of new construction units, remains unchanged from COAH’s second round projection. With regard to the Township’s share of rehabilitation units, the figure has been revised downward. On June 2, 2014 proposed rules for COAH’s third round (N.J.A.C. 5:99-et seq.) were published in the New Jersey Register. Appendix B provides updated rehabilitation share figures for use in preparation of a Housing Element and Fair Share Plan. Lopatcong Township’s rehabilitation share for the third round is now 0 units. The 51-unit prospective need for 2014-2024 equals the Township’s build-out capacity

determined by the Highlands Council pursuant to the RMP.

Adding together all three components — rehabilitation share, prior round obligation, and prospective need 2004-2024 — Lopatcong Township’s overall pre-credited fair share obligation for round three is 107 units comprised of 0 rehabilitation, 56 units from prior rounds and 51 units attributed to the prospective need. The computation shown in Table 2 below illustrates the obligation before application of credits allowed by COAH.

Table 2: Pre-Credited Round Three Affordable Housing Obligation

Round Three Methodology Components	
Rehabilitation Share	0 units
Prior Round Obligation (new construction)	56 units
Prospective Need 2004-2024 (new construction)	51 units
Fair Share Obligation	107 units

Credits, Reductions and Adjustments

The section above describes Lopatcong Township’s cumulative fair share obligation for the period 1987-2024, which has been calculated to be 107 units (Table 2). COAH allows municipalities to reduce this obligation by applying credits, reductions and adjustments for prior housing activity including new construction and rehabilitation of deficient units completed after April 1, 2000, which are occupied by low or moderate income households. Lopatcong Township is not entitled to any reductions or adjustments; however, credits for new construction of affordable units completed during and subsequent to prior rounds and for rehabilitation of deficient units have accrued to the Township’s fair share obligation. Lopatcong Township received second round substantive certification on January 5, 2000. The Fair Share Plan certified by COAH included a total of 62 new construction credits.

Certified Credits

Credits for construction of new affordable units used to reduce the prior round obligation have accrued vis-à-vis two projects — a senior housing development on Red School Lane and an inclusionary project named Overlook at Lopatcong. These two completed housing developments produced a total of 62 low- and moderate-income units, which were included in the Township’s round two certified fair share plan.

Lopatcong Senior Housing (aka Clymer Village), which received credit from COAH as a prior cycle project, provided the Township with 40 age-restricted affordable rental units. The second development included in the round two certified plan, Overlook at Lopatcong, was approved as an inclusionary project that provided a 22-unit affordable housing set aside.

Pending Credits

Supportive and special needs housing consisting of three group homes have been developed in the Township subsequent to completion of the round two fair share plan certified by COAH in 2000. Each of the facilities was developed by a non-profit organization that provides housing for persons with developmental disabilities. The projects were funded with securities that require

affordability controls restricting occupancy to persons that qualify as low-income pursuant to COAH's rules. The unit of credit for this type of affordable housing is the bedroom of which the total is eleven (11) credits that are subject to verification by COAH. Two of the homes were developed by Alternatives, Inc. The group home located at 150 South Seventh Street, which was completed in 2006, consists of three (3) bedrooms; the home located at 20 James Street, also completed in 2006, contains four (4) bedrooms. Additionally, a group home developed by the Warren County Arc was completed in 1998. The home, located at 17 Hampton Terrace, provides four (4) bedrooms leased to low-income individuals. Proposed rental bonuses associated with these affordable projects will add 11 units for a total of 22 credits pending verification.

Round Three Summary

Obligations consist of 0 rehabilitation units and 107 units of new construction for a total of 107 units. The Township is projecting a total of 84 new construction credits comprised of 62 certified by COAH and 22 pending COAH's verification and credit for twelve (12) rehabilitated units for future rounds. Together, credits for round three total 96 units. Below is a table that summarizes Lopatcong Township's Fair Share Obligations for round three (1987-2024).

Table 3: Remaining Third Round Fair Share Obligations

Rehabilitation Share Obligation	0 units
Renovated deficient units	12 units
Remaining Rehabilitation Share Obligation	0 units
Unanswered Prior Obligation (1987-2014)	56 units
Lopatcong Senior Housing (Red School Lane)	40 units
Inclusionary Development (Overlook at Lopatcong)	16 units
Remaining Unanswered Prior Obligation	0 units
Fair Share of Prospective Need	51 units
Lopatcong Senior Housing (Red School Lane) Prior round surplus units	6 units
Supportive and Special Needs Housing	11 units
Rental Bonuses	11 units
Remaining Fair Share of Prospective Need Obligation	23 units

To summarize, Lopatcong Township has no rehabilitation obligation and has a 12-unit surplus going forward. The prior round obligation can be satisfied by application of 56 of the 84 pending and certified credits; the remaining 28 units should be applied to the prospective need obligation of 51 units leaving the Township with a 23-unit new construction shortfall. The Township's strategies for meeting its Fair Share Obligations are detailed in the Lopatcong Township Fair Share Plan.

Table 4: Summary of Round Three Obligations

Round Three Fair Share Summary	
Rehabilitation Share	Satisfied
Prior Round Obligation	Satisfied
Prospective Need Obligation	23-unit shortfall

ANALYSIS AND RECOMMENDATIONS

The following sections provide an analysis and recommendations regarding the Township's present housing characteristics and future housing strategies, with particular emphasis on its affordable housing need.

Future Residential Development

Lopatcong Township's residentially zoned area is characterized by older suburban neighborhoods and large open space areas comprised of farmland and public parks associated with the ridges of Marble Hill near the Delaware River on the west and Scott's Mountain in the northeast quadrant of the Township. Lopatcong Township contains a great variety of housing types, including small-lot detached single-family dwellings and multi-family housing, generally located in the more developed neighborhoods of Brakely Park, Rose Hill Heights, Morris Park, and Delaware Park. These neighborhoods have already developed infrastructure systems to accommodate moderate and high-density housing and are nearing build-out. Rural areas of the Township that do not provide sanitary sewer infrastructure have generally developed as large-lot single-family communities mixed with open space comprised of public lands and farms.

Prior to 2004, Lopatcong Township experienced a marked increase in housing development. Between 1999 and 2004, a total of 839 certificates of occupancy were issued — an average of 168 per year. That compares to an average of 49 houses per year for the four-year period between 1996 and 2000. The completion of a single-family community known as Country Hills, the build-out of Overlook at Lopatcong, a 398-unit multi-family inclusionary development, and partial development of the Warren Heights condominium project were the primary contributors to the increase.

Between the beginnings of 2004 through 2007, the pace of development in Lopatcong Township slowed dramatically, from a high of 102 units in 2004 to only 24 in 2007. From 2008 through 2014, an average of 45 certificates of occupancy were issued annually as compare to 168 annually on-average for the 5 prior years. This downturn has been exacerbated in recent years by a retracting national economy which is beginning to abate. The U.S. housing market, hit hard by the recent recession, has started a slow recovery. Lopatcong Township has not escaped the negative effects of the recession and future housing demand is expected to be soft for the next two to five years.

The 414-unit Warren Heights development was completed in 2013. Construction began on a 158-unit age restricted active adult community, known as Delaware Crossing at Morris Park, in 2004. A certificate of occupancy has been issued for all but one of the proposed 158 units. Scenic Ridge Estates, comprised of 54 single-family lots, was approved in 2003. Home sales have lagged: Only 13 occupancy certificates have been issued. A project known as Belview Estates, comprised of 35 single-family lots, was approved in 2004. Twenty-three Belview Estates units remain to be completed.

In 2009 the Township rezoned a property located in the Route 22 corridor. Formally zoned Highway Business, the site was rezoned for multifamily residential development that includes an

affordable housing set aside requirement. A developer has been granted final site plan approval for a 247-unit rental community that will provide the Township with 50 low and moderate income units. No additional major residential projects are approved or pending in the Township. Future residential development will likely proceed slowly until the national and local economies improve.

Future Employment and Business Development

Lopatcong Township's future employment prospects are not expected to improve markedly in the immediate future due to the economy, which has not fully recovered from the recent recession. Overall employment in the Township has been shrinking in recent years, a trend that is likely to continue in the private sector employment base. In 2000 the Township repealed the I-Industrial Zone and replaced it with the ROM-Research Office Manufacturing District, which is more in keeping with development that has occurred in other municipalities along the I-78 corridor. In 2004 the Township adopted an ordinance to effectuate a Planned Development District Overlay that seeks to attract development of mixed-use projects in Lopatcong Township where existing infrastructure and highway access exist. Notwithstanding these efforts to attract new business development to the Township, little has occurred.

The Highlands Council approved Lopatcong's request for a Center designation that covers much of the undeveloped land in the commercial and industrial districts that are located along and adjacent to the Route 57 and Rout 22 corridors. The Township's current policy regarding allocation of sanitary sewer service favoring development of the ROM and HB-Highway Business districts is in concert with the objectives in the RMP for the Township's Highlands Center overlay. The actions by the Township and the Highlands Council provides sewer capacity reserves for this area, which will help the Township to be more competitive with other municipalities in the region for future commercial, industrial and manufacturing development.

It is anticipated that future job growth in the Township will occur from expansion of existing firms and new development, subject to available sewer capacity and market constraints. It is likely that employment characteristics in the Township over the next ten years will not change significantly unless the economy improves drastically.

The Ingersoll Rand property located on the Route 22 corridor has been deemed a redevelopment area by the Township and the Highlands Council. The site can accommodate a regional retail center that would add jobs to the Township's employment base if development were to occur. Sewer capacity has been reserved for this potential development as set forth in the Township's 2013 WMP.

Affordable Housing Opportunities

The round three new construction obligation for Lopatcong Township after application of certified credits has been calculated to be 45 units. The Township will seek approval of an additional 11 affordable housing units located in group homes that have been constructed since 1997; and 5 rental bonuses. If approved, those credits will further reduce the new construction obligation to 29 units (Table 3). Following is an analysis of potential affordable housing opportunities in Lopatcong Township for consideration by the Planning Board.

Inclusionary zoning is one mechanism offered by COAH for providing a realistic opportunity to meet the Township affordable housing obligations. The Township currently has an undeveloped inclusionary zone – the AARC-Active Adult Residential Community Zone – that was created in response to the Township’s obligation under COAH’s repealed rules. The rules have changed as has the Township’s obligation. Further, the Highlands Council has placed the site in the Conservation Zone and compliance with the RMP will render the site unsuitable for development as zoned. It is recommended that the Township consider rezoning the AARC district to a residential zone that incorporates design standards established for the Conservation Zone and is not restricted to seniors. In 2009, the Township rezoned a parcel located in the Route 22 corridor. The new MFI Multi Family Inclusionary Zone provides for a 12 dwelling unit per acre density and 20 percent set aside for affordable units if developed with rental housing. A developer received final site approval in 2013 for 247 rental apartments including 50 that will be available to low and moderate-income households.

In 2012, Community Hope, Inc, a not-for-profit housing and counseling provider, entered into an agreement with Lopatcong Township to develop a housing unit on each of two municipally owned lots. Each unit would contain two apartments occupied by a low-income disabled individual with a preference for veterans. The Township has offered help to Community Hope in two ways: It is donating the lots and providing \$115,000 toward the construction of each duplex house. The funds, which are from the Township’s affordable housing trust fund, have been set aside in an escrow account for this purpose. Community Hope plans to own, operate and maintain the units, which would be rented to special needs individuals as part of a permanent supportive housing program. Due to funding constraints, the project has not moved beyond the conceptual stage, but Community Hope’s CEO has recently expressed interest in moving ahead with the project. (Phone conversation with Michael Armstrong on May 13, 2015)

Negotiations for a 100% affordable project located on the site of the existing Clymer Village senior housing development were started in 2005. Preliminary site plan and architectural sketches were prepared and discussions with the owners, National Church Residence (NCR) focused on feasibility and programmatic concerns. The Township was primarily interested in development of family housing units and the 2005 Housing Element that was submitted to COAH with Lopatcong’s 2005 petition for substantive certification included a proposed 65-unit rental project. As a result of COAH’s amendments and the long delay in their adoption, negotiations with NCR ceased. The Township should make every effort to restart those negotiations with an emphasis on senior housing as was originally proposed by NCR.

It is recommended that the Township consider all of the above as potential opportunities for meeting their obligation to provide a realistic opportunity for development of affordable housing to meet their needs for the third round and beyond. The Fair Share Plan that accompanies this Housing Element provides additional information about the Township’s obligations, credits and proposals.

RELATIONSHIP TO THE RMP

The Highlands RMP includes goals, policies and objectives that address the housing needs for low and moderate income families within the Highlands Region:

- **GOAL 60: MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION WITHIN THE CONTEXT OF ECONOMIC, SOCIAL AND ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS.**
- **Policy 607: To require that conforming municipalities implement both resource protection requirements of the RMP along with the new Jersey Supreme Court's doctrine, in its Mount Laurel decisions, that every municipality in a "growth area" has a constitutional obligation to provide through its land use regulations, sound land use, and long range planning, a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.**
- **Policy 608: To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection requirements of the RMP.**

These mandates must be reconciled with the RMP policy to protect the character and natural resources of the Region and infrastructure limitations that result from the Land Use Capability Zone.

Unquestionably, the pattern of future development in Lopatcong Township has been altered by the Highlands RMP. This is especially true regarding non-residential development. The vacant lands located along the Route 22 and Route 57 corridors as well as property located adjacent to Strykers Road south of Route 57 have long been developed with commercial enterprises and small manufacturing businesses as per municipal zoning. The Highlands Council has placed these sites within a Highlands Center overlay district thereby fostering expansion of sewer service needed for large scale commercial and industrial development as envisioned by the Township. As a result, the HB and ROM zones south of Route 57 will see future development consisting of small-scale new businesses or modest expansions of existing enterprises in keeping with the goals and objectives set forth in the RMP.

FAIR SHARE PLAN

The municipal Fair Share Plan has been redrawn to the extent necessary to address the affordable housing obligation, while at the same time complying with Highlands Area density and resource constraints and the referenced changes to the Fair Housing Act. Prior plans for the provision of affordable housing units which have not yet been implemented have been reevaluated for consistency with these provisions and altered accordingly.

CERTIFICATION

The Township intends to file a petition for Substantive Certification of its Third Round Housing Element and Fair Share Plan (inclusive of implementing ordinances and supporting documentation) with the Superior Court, Warren County. The municipality will proceed with such action as directed by the New Jersey Supreme Court in its March 10, 2015 ruling.

PLANNING REPORT

PROPOSED MASTER PLAN AMENDMENT

Fair Share Plan

Lopatcong Township Warren County, New Jersey

Prepared for: Lopatcong Township Planning Board

Under the supervision of:

George A. Ritter, P.P./AICP
Professional Planner
NJ License #2126
AICP #017420

May 13, 2015

Adopted: May 27, 2015

THE FAIR SHARE PLAN

INTRODUCTION

The New Jersey Supreme Court, pursuant to its ruling on March 10, 2015, In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing (M-392-14)(067126), requires that a municipality demonstrate constitutional compliance with the Fair Housing Act (FHA) by submitting a Fair Share Plan to address its 1987-2024 fair share obligations. The Fair Share Plan shall identify the strategies to be utilized by the municipality to meet the affordable housing obligations carried forward from previous rounds including its share of the region's housing in need of rehabilitation and the prospective affordable housing need for 2014-2024 that is detailed in the municipal Housing Element. The process identified in the ruling will serve as a means by which a municipality may obtain certification of its Fair Share Plan from the courts in the absence of affirmative action by the legislature or the Council on Affordable Housing (COAH or Council). Pursuant to rules established by COAH, the Fair Share Plan shall be adopted by the planning board and endorsed by the governing body prior to the municipal petition for substantive certification.

The most recent Fair Share Plan for Lopatcong Township was adopted on May 26, 2010. The Fair Share Plan that follows responds to the need for affordable housing in Lopatcong Township based upon that which has been identified in the Housing Element completed on May 13, 2015. It complies with requirements of the revised New Jersey Council on Affordable Housing Procedural Rules (N.J.A.C. 5:98) and Substantive Rules (N.J.A.C. 5:99) for round three, proposed on June 2, 2014.

For round three, COAH has provided municipalities with their fair share obligations using a new methodology that incorporates data from prior rounds and projected need calculated by COAH. The prospective need is for the years 2014 to 2024: It is added to the municipality's prior round obligations for new construction and a new number obligation for rehabilitation of deficient housing to arrive at the round three fair share need. Municipalities that are located in the Highlands Region, such as Lopatcong Township, have been assigned a prospective need that matches the buildable limit contained in a build-out analysis prepared by the Highlands Council. The 2015 Housing Element provides the data used to determine Lopatcong Township's fair share obligations for the third round.

AFFORDABLE HOUSING NEED

Combining the three components used to determine the pre-credited affordable housing obligation for round three — rehabilitation share, prior round obligation and prospective need — Lopatcong Township's obligation is 107 units comprised entirely of new construction units: There is no rehabilitation obligation for the third round. Table 1 illustrates Lopatcong Township's pre-credited affordable housing need for round three.

Table 1: Pre-credited Round Three Affordable Housing Need

Round Three Fair Share Components	
Rehabilitation Share	0 units
Prior Round Obligation (new construction)	56 units
Prospective Need 2014-2024 (new construction)	51 units
Fair Share Obligation	107 units

Lopatcong Township has undertaken affordable housing activity that has generated units that may be utilized as credit against the pre-credited fair share obligations. The total is 96 credits, 84 of which are new construction and the remaining 12 credits are for rehabilitated units. The new construction credits have been applied first to the prior round obligation pursuant to COAH's rules. Surplus credits have been carried forward to the prospective need obligation. After application of certified and proposed credits, Lopatcong Township's affordable housing obligation for round three is reduced to 23 units as illustrated later in Table 2.

Table 2: Remaining Third Round Fair Share Obligation

Rehabilitation Share Obligation	0 units
Renovated deficient units	12 units
Remaining Rehabilitation Share Obligation	0 units
Unanswered Prior Obligation (1987-2014)	56 units
Prior Cycle (Lopatcong Senior Housing)	40 units
Inclusionary Development (Overlook at Lopatcong)	16 units
Remaining Unanswered Prior Obligation	0 units
Fair Share of Prospective Need	51 units
Lopatcong Senior Housing (Red School Lane) Prior round surplus units	6 units
Supportive and Special Needs Housing	11 units
Rental Bonuses	11 units
Remaining Fair Share of Prospective Need Obligation	23 units

To summarize, Lopatcong Township has no rehabilitation obligation and has fulfilled its prior round obligation for new construction of 56 units. The new construction prospective need for the period 2014-2024 is 51 units of affordable housing. The Township's 51-unit prospective need obligation has been reduced by 22 completed units — six (6) of 22 credits for units constructed in the Overlook at Lopatcong inclusionary development that were not used for the prior round obligation; and 11 units comprised of three completed group homes plus 11 bonus credits for those units — leaving Lopatcong Township with a 23-unit shortfall.

Table 3: Summary of Round Three Obligations

Round Three Fair Share Summary	
Rehabilitation Share	Satisfied
Prior Round Obligation	Satisfied
Prospective Need Obligation	23-unit shortfall

The following section describes the strategies that will be employed by Lopatcong Township to address this affordable housing obligation.

COMPLIANCE STRATEGIES

The Council on Affordable Housing requires that the municipality applying for substantive certification present a plan that meets its overall obligation for the period of time that covers the years 1987 - 2024, which includes three components: Present need (rehabilitation share), unanswered prior obligation and prospective need. As demonstrated above, Lopatcong Township has met its obligation for the prior round with completed affordable units and has no present need obligation for round three. With regard to prospective need, the Township has a shortfall of 23 units.

COAH has provided municipalities with several options for providing affordable housing. The options identified by the Township as providing a realistic opportunity for the development of affordable housing to meet its unmet round three obligations are in the categories of rehabilitation and new construction including credits for rental bonuses. Following is a description of each proposed rehabilitation and new construction project or program.

Rehabilitation Program

Subsequent to COAH's grant of substantive certification for round two, the Township contracted with the Warren County Housing Program to rehabilitate deficient units in the municipality. Three units were rehabilitated via that program between 2003 and 2004. These rehabbed units were verified by COAH. The owners of two of those units have since satisfied their liens and the affordability controls have been extinguished. The Township no longer contracts with the County and now self-administers the program. Nine units have been rehabilitated under the municipal program since 2005: The 9 units rehabbed by the Township are subject to verification. Lopatcong Township has documented the 12 rehabilitation units, three Warren County Housing Program units and 9 Lopatcong Township Rehabilitation Program units, which will be used to reduce any deficient housing unit obligation in future rounds.

New Construction

Forty (40) new construction credits accrue to a prior cycle project known as Lopatcong Senior Housing (Clymer Village) located on Red School Lane. Additionally, the certified second round fair share plan included 22 units of affordable housing set aside in Overlook at Lopatcong, an inclusionary ownership development. COAH verified these credits in its grant of the second round substantive certification. All 40 of the Clymer Village affordable units and 16 Overlook affordable units will be applied to the 56-unit prior round obligation. The 6 unused Overlook credits will be applied to the Township's prospective need obligation.

Lopatcong Township will seek credit for three (3) group homes completed in the Township subsequent to 1997. All of the units were occupied by low-income individuals prior to 2004. None are age-restricted. Group homes fall under the category of supportive and special needs housing (formally known as alternative living arrangements) where the unit of credit is the bedroom. The 3

homes described below provide an aggregate of 11 bedrooms; therefore, the Township will seek 11 credits toward its prospective need obligation. Further, the Township should be eligible for 11 rental bonus credits for the group homes which shall accrue to the prospective need obligation.

Group Home – Alternatives, Inc.- 150 S. 7th Street

Alternatives, Inc. operates a group home for mentally ill persons at 150 S. 7th Street in Lopatcong Township. The home provides facilities for 3 very low-income persons with mental disabilities. Facilities include three bedrooms, a common food preparation area and dining facilities, and shared bathrooms. The facility is licensed with the NJ Department of Human Services, Division of Mental Health Services. Affordability controls are provided through HUD, which provided funding for the project via its Section 811 program.

The unit of credit for a group home, which is a supportive and special needs housing facility, is the bedroom; therefore the Township is eligible for three (3) affordable housing credits upon verification by COAH.

Group Home – Alternatives, Inc - 20 James Avenue

Alternatives, Inc. operates a group home for developmentally disabled persons at 20 James Avenue in Lopatcong Township. The home provides facilities for very low-income persons with developmental disabilities and includes four bedrooms, common food preparation and dining facilities, and shared bathrooms. The facility is licensed with the NJ Department of Human Services, Division of Developmental Disabilities. Affordability controls are provided through HUD via its Section 811 program.

The unit of credit for a group home, which is a supportive and special needs housing facility, is the bedroom; therefore the Township is eligible for four (4) affordable housing credits upon verification by COAH.

Group Home – The ARC of Warren County

The ARC Warren purchased a home at 17 Hampton Court in Lopatcong Township in January 1997. The ARC Warren operates the facility as a group home for adults with developmental disabilities. The home contains four (4) bedrooms, common cooking and dining facilities, and shared bathrooms. All of the tenants are low-income. Since the operational costs are partially recouped through a Medicaid waiver from the federal government, all residents must maintain fiscal eligibility for this program. ARC Warren purchased the home with a capital grant from the State of New Jersey, which obligates them to operate the facility as a group home for at least twenty (20) years.

Since the unit of credit for this supportive and special needs housing facility is the bedroom, the facility will qualify for four (4) affordable housing credits upon verification.

In summary, Lopatcong Township will seek a total of 84 credits toward its 107-unit affordable housing obligation for existing low and moderate-income units created within the Township.

After application of credits for affordable units that have been built, rehabilitated and occupied, the Township has a remaining fair share obligation of 23 units. The shortfall is comprised entirely of new construction which should be completed during round three. The Township will seek credit toward this shortfall by proposing additional affordable housing units to be created by the mechanisms described below.

Proposed Affordable Housing

Following is a description of the programs/mechanisms identified by the Township to meet its remaining 23-unit fair share obligation. The Rehabilitation Program has been suspended following completion of one additional unit in 2010, as the third round obligation has been satisfied. To offset the 23-unit new construction obligation, Lopatcong Township has adopted an inclusionary zoning ordinance under which the Township has approved an inclusionary project known as Sycamore Landing.

Rehabilitation Program

Lopatcong Township has no deficient housing to rehabilitate to meet its round three rehabilitation share. The Township initiated a rehabilitation program in 2000 to meet its second round obligation. The program has been funded with monies drawn from its Affordable Housing Trust Fund, which has grown from fees collected from developers. Twelve (12) units have been completed, 3 by Warren County and 9 by the Township.

The primary source of funds allocated to the Trust Fund for the rehabilitation program is the payments in lieu of constructing affordable units derived from the developer of Warren Heights, a 414-unit multi-family residential project, pursuant to a Developers Agreement entered into by all parties on January 4, 1999. The payments have ceased as the last certificate of occupancy was issued in 2013.

Inclusionary Zoning/Approved Development

Lopatcong Township's new construction obligation that remains unfulfilled after application of credits for existing affordable housing is 23 units. To address this shortfall, the Township established an inclusionary zoning district named MFI-Multi Family Inclusionary, which will require developers to provide an affordable housing set aside of 25% if for-sale units are developed or 20% for rental projects. Further, the ordinance requires that the affordable units are constructed on site and that each affordable unit shall be unrestricted and otherwise meet the definition of a "family unit" as set forth in N.J.A.C. 5:97-1.4. The ordinance also requires that a developer provide a minimum set-aside of 10% of the affordable units for households that qualify as very low-income.

The ordinance applies to one parcel in the Township located in the southwestern quadrant of the US Route 22 corridor. The subject parcel, which is currently undeveloped, is shown on the Lopatcong Township Tax Maps as Block 102/Lot 3 and contains 20.6 acres. The tract is a through-lot having frontage on east bound US Route 22 and Lock Street. The parcel adjoins the Phillipsburg Mall property to the east and the Warren Canal located on County owned property to the west.

The MFI Zone permits multifamily residential dwellings comprised of garden apartments on a lot with a minimum area of 15 acres. The maximum density is 12 units per acre for rental projects and 6 units per acre if ownership units are developed. The maximum number of dwelling units within a single building is 24. The minimum bulk requirements for principal buildings include a front yard of 100', 50' side yard (100' combined), 50' rear yard, and 300' lot frontage. Buildings cannot exceed a height of 45' or 3-stories. Impervious cover is limited to 60% of the lot area. There is no requirement for building coverage. The adopted ordinance is included as APPENDIX A.

Approved Development—Sycamore Landing

A proposal to develop the site pursuant to the MFI Zone requirements was approved the Planning Board in 2013. The applicant proposes to develop a multi-family community comprised of 247 rental apartments located in 11 buildings. An affordable housing set aside of 20 percent or 50 units will be provided by the developer on-site including at least 5 apartments reserved for very low-income households. The development will include a clubhouse, swimming pool and walks. Parking will be provided in open air lots and within 1-story garages. The development will be served with public water and sewer. A stormwater retention pond will be constructed where the remains of the Warren Canal exist. The plan proposes to provide vehicular access to the development from US Route 22. Additionally, access will be via a road that connects to the existing Mall perimeter road. An access drive connecting the site to Lock Street will provide ingress/egress to the proposed retention basin.

Development Fees

Lopatcong Township collects fees for new development pursuant to an ordinance established in 1999. The ordinance has been amended in subsequent years to comply with revised COAH rules. The current development fee ordinance is one that was adopted by the Township on June 1, 2005 and last amended in 2008.

The funds collected from developers of residential and non-residential projects in Lopatcong Township will be added to the balance of monies in the Township's Affordable Housing Trust Fund. Any fees in excess of those required by Lopatcong Township to fund the mechanisms proposed in this plan shall be used to fund affordable housing activity in the future as needed. Should there be a shortfall in the required funding, Lopatcong Township is fully committed to provide the funding necessary to fulfill the Township's financial obligation for the proposed projects/programs regardless of the availability of grants, developer fees, or voluntary fees which the Township can expect to receive.

Lopatcong Township has prepared a plan of how it will spend development fees that have been collected or will accrue in the future as a result of residential and non-residential development in the Township. The proposed Spending Plan for round three is detailed in a separate document, which will be reviewed by the Planning Board before being forwarded to Township Council for its endorsement.

Affordability Assistance

The Council on Affordable Housing requires that Lopatcong Township use a portion of its development fee revenues to fund a program to assist low and moderate-income households in the purchase or rental of units within the Township. An affordability assistance program utilizing COAH guidelines has been developed for this purpose. It is described in detail in the Affordability Assistance Program Plan appended to this Fair Share Plan (APPENDIX B).

Round Three Fair Share Summary

Lopatcong Township's pre-credited round three affordable housing obligation is 0 rehabilitation units, 56 prior round obligation units and 51 prospective need units for a total of 107 units. Lopatcong Township will seek credit for 12 rehabilitation units and 84 new construction units that have been created in the Township and occupied by low and moderate income households.

The rehabilitation program begun in 2000 has been suspended, but will renew on an as needed basis determined by demand. As for the prospective need obligation, 11 affordable units contained in 3 group homes have been developed: 11 rental bonuses will accrue to those units. Fifty (50) new affordable units will be constructed within the Township's MFI-Multi Family Inclusionary Zone: Also proposed are 37 rental bonus credits — 5 for very low-income and 32 for family rental units. In total, Lopatcong Township's Fair Share Plan accounts for 170 units. A surplus of 12 units accrue to the rehabilitation share. There are 35 surplus rental bonus credits attributed to the prospective need units and 16 surplus new construction units. The excess units will be used as credit toward future affordable housing obligations. Table 3 provides the summary of the obligations and credits for round three.

Table 4: Fair Share Summary

Third Round Fair Share Obligation Analysis	
Rehabilitation Obligation	0
Credits	
Warren County Housing Program	3
Lopatcong Township Rehabilitation Program	9
Total Rehabilitation Credits	12
Remaining Rehabilitation Obligation	
Prior Round Obligation	56
Credits	
Prior Cycle (Clymer Village age-restricted rental units)	40
Inclusionary Zoning (Overlook at Lopatcong (ownership family housing))	16
Total Prior Round Credits	56
Remaining Prior Round Obligation	
Prospective need Obligation	51
Credits	
Prior Round Surplus Units (Overlook at Lopatcong family housing ownership units)	6
Supportive Needs Housing (Group Homes)	
Alternatives, Inc 150 S. 7th St. (very low-income rental units)	3
Alternatives, Inc 20 James St. (very low-income rental units)	4
ARC of Warren County (rental units)	4
Inclusionary Zoning (family housing rental units)	50
Rental Bonuses	35
Total Prospective Need Credits	102
Remaining Prospective Need Obligation	
Round Three Fair Share Obligation Summary	
Rehabilitation Units (satisfied)	0
New Construction Units (satisfied)	0
New Construction Surplus	51
Rehabilitation Surplus	12

Lopatcong Township is committed to providing its fair share of affordable housing pursuant to the programs described in this Fair Share Plan. The Township intends to fund the proposed programs with current revenue contained in its Affordable Housing Trust Fund and future fees collected from developers pursuant to the Lopatcong Township Development Fee Ordinance. Details of the available and anticipated funds and the funding program are contained in the Lopatcong Township Development Fee Spending Plan.

The purpose of the development fees and payments made in lieu of constructing affordable units is to fund the third round affordable housing administration, programs and projects pursuant to this plan. Any funds collected and deposited in the Lopatcong Township Affordable Housing Trust Fund in excess of the amount needed for this purpose shall be used to assist the Township in addressing its entire fair share responsibilities. Should there be a shortfall in the funds necessary for the Township to fulfill its affordable housing obligations, Lopatcong Township is committed to fully funding its affordable housing programs regardless of the availability of grants, developer fees or voluntary contributions which the Township can expect to receive.

Compliance Authority

The Council on Affordable Housing has provided municipality's with a model ordinance regarding compliance with their prior round and third round affordable housing obligations. The Affordable Housing Ordinance, appended here in draft form (APPENDIX C), contains definitions for terms frequently used in the administration of affordable housing. The ordinance provides a description of the Township's choice of mechanisms selected to satisfy its affordable housing obligations. Further, the ordinance specifies guidelines applicable to newly constructed developments that provide affordable units including bedroom distribution; accessibility requirements; and limits for rents and sales prices of affordable units.

Additional features contained in the Affordable Housing Ordinance include:

- Requirements for accessory apartments;
- Affirmative marketing requirements;
- Standards for occupancy of affordable units;
- Deed restriction requirements;
- Procedures for administering affordable housing projects and programs; and
- Standards for enforcement of affordable housing regulations.

Lopatcong Township has determined that such an ordinance has merit as it clarifies a municipality's procedural requirements and obligations with regard to providing its fair share of the regions affordable housing need. Further, it provides standards and procedures applicable to development of new affordable housing projects in the Township, which will provide clarity for both developers and administrators such housing. Adoption by the Township's governing body will follow COAH's approval of the draft.

EMERGING AFFORDABLE HOUSING DEVELOPMENT

Lopatcong Township has projected that its Affordable Housing Trust Fund will have more funds than needed to complete its third round affordable housing obligations. The Township proposes to reserve the excess funds for emerging development of affordable units exceeding its obligation and for future obligations. The mechanisms that will provide the most realistic opportunity for accomplishing that purpose include the following:

- Rehabilitation of substandard housing occupied by low- and moderate-income households;;
- Contribution of funds toward the development of the Community Hope projects; and
- An accessory apartment program.

The Township has met its third round rehabilitation obligation and the Rehabilitation Program has ceased operation. The Township will continue to fund the rehabilitation program should a low- or moderate-income household request a loan or grant for rehabilitation of a deficient unit through 2024. The Township will entertain proposals for development of affordable units within group homes and offer financial assistance if needed. Development of the Township-owned lots targeted for affordable housing by Community Hope will be enhanced with an offer to contribute funds as an additional incentive for that affordable housing provider or another such prospective developer.

All of the additional units/programs that emerge during and after expiration of the third round will be fully funded by the Affordable Housing Trust Fund as set forth in the Lopatcong Township Spending Plan dated May 2015, as may be amended. The proposed Affordable Housing Ordinance (APPENDIX C) includes standards for development, marketing and administration of accessory apartments for low- and moderate-income households.

APPENDIX A

MFI-Multi Family Inclusionary Ordinance

Adopted

TOWNSHIP OF LOPATCONG

An Ordinance to Amend Chapter 243, "Zoning & Land Use", Article XIV, "Zoning District and Use Regulations", Article XII, "Establishment of Zones; Applicability of Zoning Regulations", Section 243-57, "Enumeration of zones", of the Code of the Township of Lopatcong and the "Zoning Map of Lopatcong Township", to add a residential zoning district — MFI Multifamily Inclusionary Zone — and to amend the zoning classification of a certain parcel to conform to the recommendations contained in the Master Plan Amendment, "Land Use Plan Element Proposed Amendment HB Highway Business Zone Lot 3 in Block 102".

WHEREAS, the Planning Board of the Township of Lopatcong has adopted a Master Plan amendment that recommends adding a new residential zoning district which provides for low and moderate-income housing on a parcel now zoned HB Highway Business; and

WHEREAS, the affected parcel is identified on the Lopatcong Township tax maps as Lot 3 in Block 102 and is located adjacent to the Phillipsburg Mall; and

WHEREAS, the governing body (Council) of Lopatcong Township has determined that the Planning Board's findings and recommendations regarding the zoning amendment are in the best interests of the Township.

NOW THEREFORE, BE IT ORDAINED by the Council of the Township of Lopatcong, County of Warren, and State of New Jersey that Article XII and Article XIV of the Zoning & Land Use Ordinance for Lopatcong Township are hereby amended as follows:

SECTION ONE. Article XIV of the Zoning & Land Use Ordinance shall be amended to include a new residential zoning district as follows:

Section 243-68.1. MFI Multifamily Inclusionary Zone.

- A. Intent. The intent of the multifamily inclusionary residential zone is to provide multifamily housing options, while at the same time assisting the Township in meeting its affordable housing obligation through an inclusionary zoning program. Within the MFI Zone, new multifamily development will be allowed only as part of an inclusionary development in which affordable units will be constructed for occupancy by income-qualified households as allowed and regulated by the Council on Affordable Housing (COAH).
- B. Permitted principal use: Multifamily residential dwellings.
- C. Permitted accessory uses shall be as follows:
 - (1) Sales or rental office.
 - (a) A sales/rental office of a temporary nature is permitted. Such temporary office shall not extend beyond the occupancy of the last dwelling in the project.
 - (b) A permanent sales or rental office may be provided within the multifamily inclusionary development provided the office shall not be used as a dwelling.
 - (c) Such sales/rental office shall be used only for the sale or rental of dwellings within the multifamily inclusionary development.
 - (2) Recreation and cultural facilities for the use of the public and the residents of the community and their guests including picnic areas and other active and passive recreation facilities.
 - (3) Construction office and/or trailer during the time the project is being constructed.
 - (4) The following uses shall be exclusively and solely devoted to the use and benefit of the residents of the multifamily inclusionary development.

- (a) Off-street parking areas and garages.
- (b) Maintenance facilities.
- (c) Utility facilities.
- (d) Fences
- (e) One non-illuminated identification sign for each entrance, provided that the sign shall not exceed 32 square feet in area and is located not less than 10 feet from any street line or 15 feet of an adjacent property line. The height of such a sign shall be limited to five (5) feet.

D. Provisions and Requirements. The following provisions shall be satisfied before a multifamily inclusionary development is approved:

- (1) **Sewer and Water Service.** Every dwelling unit and the community building within the development shall be connected to a public sewage disposal and central potable water service system. The sewage and water capacity provided shall be sufficient to accommodate the uses as approved by the Board.
- (2) **Location of Buildings.** All dwellings and other buildings within the development shall have frontage on and vehicular access to an internal roadway.
- (3) **Open Space.** Open space and recreation facilities shall be governed and regulated by the provisions of § 243-82 and the following requirements:
 - (a) At least 40% of the development tract shall be planned and maintained as open space for public or private recreational use, nature conservation areas, stormwater detention or retention, decorative landscaping and/or community serving facilities, not counting as open space any lands in internal roadways, drives and parking areas except as provided for in § 243-68.1.D.(3)(c) below.
 - (b) At least 50% of the open space shall be common open space as defined in § 243-5.
 - (c) Not more than 20% of common open space provided may be devoted to a community center/recreation building complex and associated parking areas; and at least 25% of the common open space shall be developed for active recreation, such as swimming pools, playing fields, tennis, bocce or basketball courts, tot-lots, trails, gazebos and community garden plots.

E. General Requirements. Every multifamily inclusionary development shall be designed in accordance with the standards set forth in the appropriate sections of the Zoning and Land Use regulations of Lopatcong Township pertaining to subdivision and site plan approval except that in addition the following requirements shall apply:

- (1) **Density.** The density of multifamily residential development shall be calculated by dividing the number of units in the development by the gross acreage of the tract, excluding the area of public street right-of-way, in accordance with the following schedule:
 - (a) Ownership units: Maximum 6 dwelling units per gross acre.
 - (b) Rental units: Maximum 12 dwelling units per gross acre.
- (2) **Unit type.** Garden apartment as defined in the Zoning and Land Use ordinance of Lopatcong Township.
- (3) **Area and Bulk requirements.** The following requirements shall apply to the entire contiguous portion of the tract:

- (a) Total land area. Any site plan for the development of multifamily units shall not be approved unless the property consists of a minimum of fifteen (15) contiguous acres, provided that the total site area shall be of sufficient size to provide for all required off-street parking, usable recreation space, yards and other requirements consistent with the projected number of dwelling units to be constructed and the development shall be designed as a single entity.
- (b) Lot frontage: 300 feet minimum
- (c) Coverage: The maximum lot coverage shall be 60% of the tract area. Building coverage is not regulated in the MFI Zone.
- (d) Yards (minimum).
 - [1] Principal buildings:
 - [a] Front: 100 feet from Route 22 right-of-way; 50 feet elsewhere
 - [b] One side: 50 feet
 - [c] Both sides: 100 feet
 - [d] Rear: 50 feet
 - [2] Accessory structures.
 - [a] Side: 25 feet
 - [b] Rear: 25 feet
- (e) Height (maximum for all structures)
 - [1] Feet: 45
 - [2] Stories: 3
- (4) Building setbacks and distances between buildings.
 - (a) Within the tract, buildings shall be set back from the curb line of private roads or the right-of-way line of public streets the following distances:
 - [1] From internal roadway or drive: 35 feet.
 - [2] From parking area: 15 feet.
 - (b) Minimum distance between buildings shall be:
 - [1] Front to front: 35 feet.
 - [2] Front to side: 35 feet.
 - [3] Front to rear: 50 feet.
 - [4] Side to side: 25 feet.
 - [5] Side to rear: 35 feet.
 - [6] Rear to rear: 50 feet.
 - (c) No dwelling unit shall be closer than 50 feet to any community center/recreation building complex.
- (5) Screening. Wherever a multifamily residential development shall abut a lot or lots developed as or subdivided for single-family detached homes, the setback area required shall contain screening such as dense hedges, decorative fencing or landscaped earth

berms as further prescribed in § 243-62. Existing vegetation, along or with additional plantings if needed, may be used for screening, if sufficiently dense.

- (6) Unit and building requirements.
 - (a) No single building may contain more than 24 garden apartment units. The number of units in a building shall be considered those which share a common entrance in a discrete building component.
 - (b) No building facade shall continue in the same plane for a length of more than 100 feet without offsets or building projections from the plane totaling at least five feet, and, in any case, all buildings or building components shall be so arranged that, when viewed from any one direction, the overall length (even though not at the same plane) shall not exceed 240 feet.
 - (c) Dwelling units in basements are prohibited.
- (7) Improvements and utilities.
 - (a) All utility lines, including power, telephone and cable television lines shall be installed underground and adequately shielded.
 - (b) Television antennas mounted on the exterior of buildings shall not be permitted.
 - (c) Fire hydrants shall be installed by the developer in adequate number and at locations recommended by the Township Engineer and Fire Chief.
 - (d) The overall development shall be served by functioning storm drains and other utility systems; all streets and parking areas shall be paved to finish grade; and lawns in the immediate vicinity of the subject building shall be established before a certificate of occupancy may be issued for any dwelling unit in the building.
 - (e) All site improvements shall conform to Residential Site Improvement Standards (N.J.A.C. 5:21-1 et al)
- (8) Laundry and clothes-drying equipment. If not provided in each individual unit, laundry and clothes-drying equipment shall be provided in each building or group of attached buildings. The equipment shall be provided in a room specifically designed as a laundry area. The laundry room shall be readily accessible and shall be adequately ventilated and soundproofed so as not to create a nuisance to adjoining dwelling units. Laundry facilities shall be provided in the relationship of one commercial-type washer for each four apartments and one commercial-type dryer for each two washers. The equipment and the laundry room shall be maintained in good working order and shall be kept clean. No exterior clothesline or laundry-drying equipment shall be permitted on any part of the premises.
- (9) Storage facilities. In addition to any storage area contained within the dwelling unit, a minimum of 250 cubic feet of storage space shall be provided for each dwelling unit within the multifamily inclusionary development for the purpose of storing bicycles, furniture and similar items. Such storage space shall be specifically allocated among the units.
- (10) Soundproofing. Each dwelling unit shall be insulated for sound by the installation of adequate soundproofing materials according to reasonable building practices within all walls separating said unit from abutting residential units, hallways or other areas devoted either to common use or reserved for the landlords use in conformance with state standards.

- F. Refuse collection. Included in the development application for any garden apartment development shall be a plan for the collection, removal and disposition of all garbage, refuse and debris from the property during both construction and operation. Such plan shall provide adequate receptacles at convenient locations within the site area, including facilities for the recycling of recyclable materials.
- G. Affordable housing requirements. All units developed for sale or rental to qualified low and moderate-income households shall comply with all applicable provisions of COAH's Substantive Rules (N.J.A.C. 5:97-1 et seq.) and Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) and the following:
- (1) The requirements of Article XVII, "Low and Moderate-Income Housing" of the Zoning and Land Use ordinance of Lopatcong Township.
 - (2) The affordable units may be for sale units (ownership) or rental units, at the developer's option.
 - (3) Minimum affordable housing set aside:
 - (a) Ownership units: 25% of the units developed in the project.
 - (b) Rental units: 20 percent of the units developed in the project.
 - (4) Inclusionary zoning for rental units shall provide that at least 10 percent of the affordable units are to be affordable to households earning 30 percent or less of median income for COAH Region 2.
 - (5) The tract shall comply in all ways with COAH's site suitability criteria as set forth in N.J.A.C. 5:97-3.13.
 - (6) Bedroom distribution for affordable units shall comply with the requirements set forth in COAH's Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.).
- H. Morris Canal buffer. The developer shall provide a buffer from the portion of the former Morris Canal located on adjoining Lot 2 in Block 102. The width of the buffer and any additional requirements shall be as prescribed by the Warren County Planning Department.

SECTION TWO. Article XII of the Zoning & Land Use Ordinance shall be amended to add the following zoning district:

Section 243-57. Enumeration of zones.

MFI Multifamily Inclusionary Zone

SECTION THREE. The "Zoning Map of Lopatcong Township" dated June 2, 2005 shall be amended to conform to the zoning revision depicted on the map titled "Proposed Zoning Map Amendment" prepared by Ritter & Plante Associates, LLC dated November 2, 2009 and attached hereto.

SECTION FOUR. All ordinances or part of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION FIVE. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.

SECTION SIX. This ordinance shall take effect upon its passage and publication according to law.

APPENDIX B

Affordability Assistance Program

Proposed

Affordability Assistance Program Plan

Lopatcong Township, Morris County, NJ

May 13, 2015

Pursuant to N.J.A.C. 5:94-6.12(c), Lopatcong Township must use funds from its development fee affordable housing trust fund to increase affordability of the units that are part of its affordable housing plan. Lopatcong Township proposes to provide affordability assistance through security deposit assistance and/or rental assistance program(s).

According to Lopatcong Township's spending plan approved by Township Council on [insert date spending plan was approved], Lopatcong Township has [insert \$ amount set forth in the spending plan] available for affordability assistance programs.

Of the amount designated above, Lopatcong Township also has a requirement to provide at least one-third of all affordability assistance to households earning 30 percent or less of area median income. The municipality has designated [insert \$ amount set forth in the spending plan] for affordability assistance to very low-income households.

Rental Assistance Program

Lopatcong Township will designate [insert \$ amount set forth in the spending plan] of its affordable housing trust fund as a Rental Assistance Fund. A rental supplement from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit when only a unit in a higher income category is available (i.e., placing a low-income household in a moderate-income unit, or placing a very-low income household in a low-income unit).

The amount of the rental supplement will be determined by Lopatcong Township as the difference between the restricted rent set by the landlord and 30 percent of the renter's gross monthly income. The rental supplement will be paid directly to the landlord each month by Lopatcong Township on behalf of the tenant.

Rental assistance does not need to be repaid by the tenant. If the tenant wishes to renew the lease, they must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, but qualifies for the actual rent, they may renew the lease and stay in the unit, but will no longer receive rental assistance.

Security Deposit Assistance Program

Lopatcong Township will designate [insert \$ amount set forth in the spending plan] of its affordable housing trust fund as a revolving Security Deposit Assistance Fund. The security deposit assistance will be in the form of a cash loan equal to the security deposit amount determined by the landlord paid to the landlord on behalf of the tenant. An interest-free loan from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit.

At the termination of the lease, the landlord will return the portion of the security deposit it determines to Lopatcong Township along with the interest earned. The tenant will repay any difference between the original security deposit amount and the portion returned by

the landlord to Lopatcong Township. Funds returned to the municipality will be placed in the affordable housing trust fund to be used for future security deposit assistance.

Administration:

Lopatcong Township's Affordability Assistance Programs will be administered by the NJHMFA Housing Affordability Service (HAS). After an applicant is income qualified by HAS pursuant to COAH's rules and the Uniform Housing Affordability Controls, or cannot be qualified due to a need for assistance, an affordability assistance application will be completed and forwarded with all necessary documentation to the Lopatcong Township COAH Administrator.

The affordability assistance recipient will sign a contract with Lopatcong Township, which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information.

The availability of any Affordability Assistance Programs must be noticed to all owners/tenants of affordable units within Lopatcong Township and provided to all administrative agents of affordable units within Lopatcong Township.

An income eligible occupant or applicant for an affordable unit within the municipality may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

APPENDIX C

Affordable Housing Ordinance

Proposed

AN ORDINANCE OF LOPATCONG TOWNSHIP TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

Section 1. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Lopatcong Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Lopatcong Township shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (d) Lopatcong Township shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Lopatcong Township Municipal Building, Municipal Clerk's Office, 232 South Third Street, Phillipsburg, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

Section 2. Definitions

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

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

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

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

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

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

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

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

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

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

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

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

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

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

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

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

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

"Inclusionary development" means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a

non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

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

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

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

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

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH.

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

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

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

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

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

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

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

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

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

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

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

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

Section 3. Affordable Housing Programs

Lopatcong Township has determined that it will use the following mechanisms to satisfy its affordable housing obligations: Rehabilitation Program, Inclusionary Zoning, Accessory Apartment Program, Supportive and Special Needs Housing and Development Fee Ordinance.

(a) A Rehabilitation program.

1. Lopatcong Township’s rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
3. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
4. Lopatcong Township shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
5. Lopatcong Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for Lopatcong Township.
6. Lopatcong Township shall designate, subject to the approval of COAH, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of COAH. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
7. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

(b) An Accessory Apartment program.

- 1. All accessory apartments shall meet the following conditions:**
 - i. Accessory apartments are permitted by the Zoning Ordinance for various zoning districts, provided the units are affordable to low- and moderate-income households. Accessory apartments may be developed as low-income or moderate-income units (accessory apartments may be limited to only low- or only moderate-income units as determined in the Fair Share Plan).**
 - ii. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.**
 - iii. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.**
 - iv. Rents of accessory apartments shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.**
 - v. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.**
 - vi. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.**
 - vii. The Lopatcong Township accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.**
 - viii. No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.**
- 2. The maximum number of creditable accessory apartments shall be equal to no more than 10 or an amount equal to 10 percent of Lopatcong Township's fair share obligation, whichever is greater (additional units may be approved by COAH if the municipality has demonstrated successful completion of its accessory apartment program.).**
- 3. Lopatcong Township shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:**
 - i. The Administrative Agent shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.**
 - ii. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.**
 - iii. In accordance with COAH requirements, Lopatcong Township shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or**

\$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.

4. Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
 - i. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
 - ii. Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
 - iii. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

Section 4. Reserved

Section 5. Reserved

Section 6. Reserved

Section 7. Inclusionary Zoning

(a) Presumptive densities and set-asides. To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning permits minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:

1. For Sale Developments

- i. Inclusionary zoning in Planning Area 2 and permits residential development at a presumptive minimum gross density of six units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;

The zoning of the MFI Multi Family Inclusionary zone provides for a 25 percent set-aside for restricted units and a density of 6 units per acre.

2. Rental Developments

- i. Inclusionary zoning permits a presumptive minimum density of 12 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development and the zoning provides for at least 10 percent of the affordable units to be affordable to households earning 30 percent or less of the area median income for the COAH region.

The zoning of the MFI Multi Family Inclusionary zone provides for a 20 percent set-aside for restricted units and a density of 12 units per acre.

3. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning section of this ordinance or specified in a developer's or redeveloper's agreement.

(b) Phasing. In inclusionary developments the following schedule shall be followed:

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

- (c) **Design.** In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (d) **Payments-in-lieu and off-site construction.** The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site shall be in accordance with N.J.A.C. 5:97-6.4.
- (e) **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 8. New Construction

The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

(a) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

(b) Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - 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 on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that Lopatcong Township has collected funds from the developer sufficient to make 10 percent 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 Lopatcong Township's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - C The funds deposited under paragraph B. above shall be used by Lopatcong Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - D The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of Lopatcong Township.
 - E Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Lopatcong's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - F Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

(c) Maximum Rents and Sales Prices

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.

2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - i. At least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.

****NOTE: N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) includes the requirement that all municipal fair share plans provide for the reservation of at least 13% of the affordable units for very low income households, i.e. households earning 30% or less of the median income. The new statute states that the requirement is not project-specific. Each municipality's version of this ordinance must reflect the determinations made in the Fair Share Plan as to the percentage of units necessary for very low income units in rental projects. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning section of this ordinance or specified in a developer's or redeveloper's agreement.**
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the

appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

The following general guidelines apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

Section 9. Affirmative Marketing Requirements

- (a) Lopatcong Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Warren, Essex, Union and Warren counties.
- (d) The Administrative Agent designated by Lopatcong Township shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (e) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Lopatcong Township.

Section 10. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 11. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until Lopatcong Township elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 12. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 13. Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

Section 14. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

Section 15. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until Lopatcong Township elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of

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

- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure.

Section 16. Price Restrictions for Rental Units: Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 17. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 18. Administration

- (a) The position of Municipal Housing Liaison (MHL) for Lopatcong Township is established by this ordinance. The Township Council shall make the actual appointment of the MHL by means of a resolution [or a letter in the case of a chief executive].
1. The MHL must be either a full-time or part-time employee of Lopatcong Township.
 2. The person appointed as the MHL must be reported to COAH for approval.
 3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.
****NOTE: if the MHL position is one that will always be included in the job description for a particular position in the local staff, e.g. Township Clerk, that position can be named in this ordinance.**
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Lopatcong Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in Lopatcong Township's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required by COAH;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- (b) Lopatcong Township shall designate by resolution of the Township Council, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

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

Section 19. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 1. The municipality may file a court action 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 [insert amount] or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - 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 Lopatcong Township 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 low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the

nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income 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.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

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

Section 20. Appeals

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

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.