

**MAYOR AND COUNCIL
BOROUGH OF DEMAREST
WORK SESSION AGENDA
March 9, 2026
7:30 PM**

The notice requirements of the Open Public Meetings Act of the State of New Jersey, P.L. 1975, Chapter 231, have been satisfied by the inclusion of the date, time and place of this meeting in the annual schedule of meetings of this Governing Body. Such schedule of meetings was published as required by law and is posted at Borough Hall, on the Borough website and filed in the office of the Borough Clerk.

Pledge of Allegiance

Mayor Bernstein, Council President Slowikowski, Councilmember Carmeli, Councilmember Collins, Councilmember Fox, Councilmember Marks, Councilmember Reiss

Roll Call:

Present:

Absent:

Also Present:

Ordinance (Introduction):

**ORDINANCE NO.1178-26 CALENDAR YEAR 2026 ORDINANCE TO EXCEED
THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP
BANK (N.J.S.A. 40A:4-45.14)**

Mayor Bernstein asks for a motion to introduce on first reading by title Ordinance No.1178-26 and it be published as required by law with notice of Public Hearing to be held on March 23, 2026.

A motion was made by _____ and seconded by _____

Roll Call:

Ordinance for Public Hearing (Adoption):

Mayor Bernstein announces that due to a publication delay, the public hearings on Ordinances 1174-26, 1175-26, 1176-26 and 1177-26 will be held at a Special Meeting of the Mayor & Council on March 12, 2026 at 7:30 PM.

Mayor Bernstein then asks for a motion to open to the public to allow any member of the public who is in attendance to ask questions or offer comments related to the proposed adoption and public hearing of Ordinances 1174-26, 1175-26, 1176-26 and 1177-26 scheduled for March 12, 2026.

A motion was made by _____ and seconded by _____

Speaker (s):

ORDINANCE NO. 1174-26 AN ORDINANCE AMENDING CHAPTER 175
– 232 COUNTY ROAD

ORDINANCE #1175-26 AN ORDINANCE AMENDING AND
SUPPLEMENTING CHAPTER 175 "ZONING", ARTICLE VIII "ADMINISTRATION",
SECTION 175-34 "DEVELOPMENT FEES" TO UPDATE THE BOROUGH'S
DEVELOPMENT FEE ORDINANCE IN ACCORDANCE WITH THE DECEMBER 2025
N.J.A.C. 5:99 REGULATIONS AND THE AMENDED FAIR HOUSING ACT

ORDINANCE #1176-26 AN ORDINANCE DELETING AND REPLACING
ARTICLE X "AFFORDABLE HOUSING OBLIGATIONS" OF CHAPTER 175
"ZONING", TO BE CALLED "AFFORDABLE HOUSING", AND DELETING
SECTIONS 175-46 THROUGH 175-46.5 TO UPDATE THE BOROUGH'S
AFFORDABLE HOUSING ORDINANCE IN ACCORDANCE WITH THE DECEMBER
2025 UNIFORM HOUSING AFFORDABILITY CONTROLS, THE N.J.A.C. 5:99
REGULATIONS, AND THE AMENDED FAIR HOUSING ACT

ORDINANCE NO. 1177-26 AN ORDINANCE OF THE BOROUGH OF
DEMAREST ADOPTING THE AMENDED REDEVELOPMENT PLAN PRODUCED BY
COLLIERS ENGINEERING ON BEHALF OF THE
BOROUGH OF DEMAREST

Resolution No. 068-26 AUTHORIZING EMERGENCY TEMPORARY
APPROPRIATIONS

A motion was made by _____ and seconded by _____

Roll Call:

Resolution No. 069-26 CANCELLATION OF SPECIAL EMERGENCY AUTHORIZATION FOR THE COST OF EXTRAORDINARY EXPENSES FOR THE REPAIR AND RECONSTRUCTION OF DEMAREST, CRESSKILL AND TENAKILL BROOKS OR OTHER PROPERTY DAMAGED BY FLOOD OR HURRICANE

A motion was made by _____ and seconded by _____

Roll Call:

Resolution No. 070-26 A RESOLUTION OF THE BOROUGH OF DEMAREST ADOPTING FOURTH ROUND AFFORDABLE HOUSING SPENDING PLAN

A motion was made by _____ and seconded by _____

Roll Call:

Resolution No. 071-26 RESOLUTION ADOPTING AN "AFFIRMATIVE MARKETING PLAN" FOR BOROUGH OF DEMAREST

A motion was made by _____ and seconded by _____

Roll Call:

Work Session Discussion Items:

Engineering Report

Consent Agenda

Mayor Bernstein asks if any member would like to have any resolution removed from the consent agenda and voted on separately.

Mayor Bernstein asks if any member would like to abstain from voting on any resolution on the consent agenda.

Mayor Bernstein asks for a motion to accept the consent agenda (with any abstentions noted)

Consent Agenda:

Resolution No. 072-26	Approving Tax Refund for 100% Disabled Vet - Gallego
Resolution No. 073-26	Soil Moving Permit – 7 Christie St.
Resolution No. 074-26	Payment of Bills

A motion was made by _____ and seconded by _____

Roll Call:

Meeting Open to the Public

Closed Session Resolution (*if necessary*)

Adjournment

**BOROUGH OF DEMAREST
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO.1178-26
CALENDAR YEAR 2026 ORDINANCE TO EXCEED
THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Borough Council of the Borough of Demarest in the County of Bergen finds it advisable and necessary to increase its CY 2026 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Borough Council hereby determines that a 1.5% increase in the budget for said year, amounting to \$150,922 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Borough Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Demarest, in the County of Bergen, a majority of the full authorized membership of this Governing Body affirmatively concurring, that, in the CY 2026 budget year, the final appropriations of the Borough of Demarest shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$352,151, and that the CY 2026 municipal budget for the Borough of Demarest be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Introduced:

Adopted:

ATTEST:

Approved:

Borough Clerk

Mayor

**BOROUGH OF DEMAREST
COUNTY OF BERGEN**

ORDINANCE #1174-26

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 175 “ZONING”,
ARTICLE IV “RESIDENCE DISTRICTS” TO ESTABLISH NEW SECTION 175-12.2
ENTITLED “RESIDENTIAL MULTIFAMILY-3 DISTRICT” AND MODIFYING THE
ZONING MAP TO REFLECT THE NEW DISTRICT**

WHEREAS, the Demarest Planning Board adopted the 2025 Housing Element & Fair Share Plan for the Fourth Round on June 5, 2025, which was duly endorsed by the Council; and

WHEREAS, 232 County Development, LLC filed a challenge to the Borough’s 2025 Housing Element and Fair Share Plan on August 28, 2025; and

WHEREAS, Mediation was held between the Borough and 232 County Development, LLC as part of the Affordable Housing Dispute Resolution Program, which resulted in a Mediation Agreement dated December 29, 2025; and

WHEREAS, pursuant to the Mediation Agreement, the Borough agreed to rezone 232 County Road (Block 63, Lot 5) to permit inclusionary residential development; and

WHEREAS, the Planning Board adopted the Amended 2025 Housing Element & Fair Share Plan on February 4, 2026, which includes the 232 County Development site as an inclusionary mechanism to address the Fourth Round Obligation; and

WHEREAS, the Amended 2025 Housing Element & Fair Share Plan makes a recommendation to establish a new district permitting inclusionary residential development on Block 63, Lot 5 to address the Borough’s constitutional obligation to provide affordable housing and comply with the Borough’s Mediation Agreement; and

WHEREAS, the Borough wishes to implement the recommendations provided in the Amended 2025 Housing Element & Fair Share Plan and as required by the Mediation Agreement; and

WHEREAS, the Mayor and Borough Council have reviewed the Amended 2025 Housing Element & Fair Share Plan and agree Chapter 175 of the Borough’s Code should be amended to implement the recommendations of the Amended 2025 Housing Element & Fair Share Plan and requirements of the Borough’s Mediation Agreement to address the Borough’s affordable housing obligation.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Demarest, County of Bergen, State of New Jersey, that the following amendments be made to the Municipal Code of the Borough of Demarest:

SECTION 1. Amend Chapter 175 “Zoning”, Article II “Establishment of Districts”, subsection 2 “Districts Enumerated” be amended and supplemented to add the following underlined text alphabetically:

R-MF-3 Residential Multifamily-3 District

SECTION 2. Amend Chapter 175 “Zoning”, Article II “Establishment of Districts”, subsection 3 “Zoning Map” be amended and supplemented to add the following underlined text and remove text in ~~strikeout~~:

The Zoning Map of the Borough of Demarest prepared and submitted by Colliers Engineering & Design Maser Consulting, dated January 23, 2026~~May 26, 2020~~, and appended hereto and incorporated herein by reference, be and is hereby approved and adopted, supplanting and replacing the Zoning Map, dated May 2020, prepared by Maser Consulting of 1984, or the latest version adopted, subject to statutory review by the Planning Board of the Borough of Demarest.

SECTION 3. Amend Chapter 175 “Zoning”, Article IV “Residence Districts” to establish a new subsection 12.2 entitled “Residential Multifamily-3 District”, which shall read as follows:

§175-12.2 Residential Multifamily-3 District.

A. Permitted principal uses.

- (1) Townhomes.

B. Permitted accessory uses.

- (1) Off-street parking.
- (2) Fences and walls.
- (3) Landscaping and buffering.

C. Bulk standards.

- (1) Minimum lot area: 70,000 square feet
- (2) Minimum lot frontage: 500 feet
- (3) Minimum Front Yard Setback from County Road: 110 feet
- (4) Minimum Side Yard Setback abutting Hardenburgh Avenue: 40 feet
- (5) Minimum Side Yard Setback Abutting a Lot: 35 feet

- (6) Minimum Rear Yard Setback: 35 feet
- (7) Minimum Setback to Attached Decks and/or Patios: 30 feet
- (8) Minimum Setback to Mechanical Equipment: 35 feet
- (9) Maximum Building Coverage: 18%
- (10) Maximum Improved Lot Coverage: 32%
- (11) Maximum Building Height (Per Unit and As Measured to the Mid-Point of the Roof), which is defined as the distance between the finished garage floor elevation and midpoint of the roof between the highest ridge and eave: 35 feet and 3 stories
- (12) Maximum Number of Units: 7 units
- (13) Maximum Number of Bedrooms In Any Unit: 3 bedrooms
- (14) No improvements, other than utilities landscaping, shall be installed within 100 feet of the County Road right-of-way. Landscaping in this area shall be capped at an amount not to result in the development of the Property being classified as a Major Development under the New Jersey Department of Environmental Protection Storm Water Management Regulations.

D. Architectural Standards.

- (1) The project shall be designed with two buildings, one containing four units and one containing three units. The buildings shall be designed in a manner to blend with the surrounding single-family homes.
- (2) Buildings shall be constructed of brick, stone, cast stone, hardy plank siding, or other high-quality materials.
- (3) The architectural design of the front façade(s) shall be continued around all visibly exposed sides of a building. All sides of a building shall be consistent in design, including style, materials, and details.
- (4) Building offsets (projections and recesses) shall be provided every 35 feet to break up the mass of the buildings. Offsets shall have a minimum depth of one foot.
- (5) Gable and hipped roofs shall be used to the greatest extent possible. Both gable and hipped roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

E. Parking.

- (1) Parking shall be provided as follows:

- (a) A minimum of 1.8 spaces per one-bedroom unit (inclusive of guest parking)
 - (b) A minimum of 2.3 spaces per two-bedroom unit (inclusive of guest parking)
 - (c) A minimum of 2.4 spaces per three-bedroom unit (inclusive of guest parking)
- (2) Where provided, garages shall be used to park cars and shall not be converted to living space or used as storage units.

F. Lighting.

- (1) A lighting plan prepared by a qualified individual shall be provided with site plan applications.
- (2) All parking areas and drive aisles (excluding driveways exclusively servicing a unit) shall have an average illumination of 0.5 footcandles.
- (3) No lighting at the property line shall exceed zero footcandles, with the exception of curb cuts along the right-of-way and areas within 10 feet of said curb cuts.
- (4) Light fixtures shall be full cutoff with a mounting height not exceed 15 feet.

G. Landscaping.

- (1) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, screen parking areas, and mitigate adverse visual impacts.
- (2) Landscape plans shall be prepared by a New Jersey licensed landscape architect. A plant list shall be provided, listing quantity, plant key, botanical name, common name, installation size, and mature size.
- (3) Shade trees shall be provided within ten feet of public rights-of-way at a rate of one per 60 linear feet of frontage. Shade trees shall be installed with a minimum caliper of three inches.
- (4) Parking areas and driveways shall be landscaped with a combination of shade trees and shrubs. Shade trees shall have a minimum caliper of three inches and shrubs shall be a minimum of 30 inches tall at installation.
- (5) Landscape buffer.
 - (a) A landscaped buffer shall be provided within 25 feet of the side and rear property lines coinciding with adjacent residential uses. Within this buffer no existing tree shall be cut or removed unless the tree is dead, dying, or diseased or if the removal of the tree is necessary for the installation of utilities.

- (b) Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees, and shrubs to provide a natural looking buffer, while providing a visual screen.
- (c) Buffer plantings shall include the following:
 - [1] One shade tree shall be provided for every 50 feet of linear feet of buffer.
 - [2] One evergreen tree shall be provided for every 20 feet of linear feet of buffer.
 - [3] One ornamental tree for every 50 feet of linear feet of buffer.
 - [4] Ten shrubs for every 50 linear feet of buffer.
 - [5] Existing shade and evergreen trees within the buffer may be counted in fulfilling the required buffer planting.
- (d) Buffer plants shall be the following sizes at the time of planting:
 - [1] Shade trees shall have a minimum caliper of three inches and minimum height of 12 feet, balled and burlapped.
 - [2] Evergreen trees shall be planted at a minimum height of six feet, balled and burlapped.
 - [3] Ornamental trees shall have a minimum caliper of two inches.
 - [4] Shrubs shall be planted at a minimum height of two feet. However, at least 50% of shrubs shall be more than two feet at installation. Additionally, at least 50% of shrubs shall be evergreen.
- (e) No more than 25% of the plantings shall be of the same species and/or variety of plant.
- (f) Buffer plantings shall be arranged in a natural staggered pattern and shall not be lined up in straight, single rows.
- (g) All buffer plants shall be deer resistant.
- (6) Foundation plantings shall be provided to soften the mass of the buildings. Said plants shall provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed development.
- (7) All applications for development shall comply with Chapter 163, "Trees" as limited by C.(14) above.

H. Trash.

- (1) Trash and recycling shall be stored inside each individual garage space or unit.

I. Affordable housing.

- (1) Block 63, Lot 5 shall provide one affordable non-restricted unit in accordance with the Mediation Agreement.
- (2) Pursuant to the Mediation Agreement, the developer shall provide a subsidy payment for a fractional unit of 0.4 pursuant to Section §175-51.
- (3) The affordable units shall meet the standards in Section §175-46, Affordable housing regulations, and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26, et seq) in effect at the time of application.
- (4) The developer/HOA shall be responsible for retaining a qualified administrative agent, who shall be the Borough's administrative agent, or a certified entity approved by the Council.
- (5) All necessary steps shall be taken to market to affordable unit provided creditworthy pursuant to applicable law.

J. Site improvement standards.

- (1) Streets, curbs, gutters, sidewalks (which at the discretion of the developer may be waived if they are not on a public street), pavements, street signs, parking lots, the water supply, fire hydrants, the sanitary sewer system, and stormwater management shall be designed pursuant to the Residential Site Improvement Standards (N.J.A.C. 5:21).

K. Off-site improvements.

- (1) Off-tract improvements are required whenever an application for development requires the construction of off-tract improvements that are clearly, directly, and substantially related to or necessitated by the proposed development. The Planning Board, as the case may be, may require as a condition of final site plan or subdivision approval that the applicant provide for such off-tract improvements if such off-tract improvements are necessitated by the townhouse development. Off-tract improvements shall include water, sanitary sewer, drainage, and street improvements.
- (2) Determination of cost. When off-tract improvements are required, the Borough Engineer shall calculate the cost of such improvements in accordance with the procedures for determining performance guaranty amounts in N.J.S.A. 40:55D-53.4. Such costs may include, but not be limited to, any or all costs of planning, surveying, permit acquisition, design, specification, bidding, construction, construction management, inspection, legal, traffic control and other common and necessary costs of the construction of improvements. The Borough Engineer shall also determine the percentage of off-tract improvements that are attributable to the applicant's development proposal and shall expeditiously report his findings to the Planning Board and the applicant.
- (3) Improvements required solely for the application's development. Where the need for an off-tract improvement is necessitated by the proposed development and no other property

owners receive a special (i.e., more than incidental) benefit thereby, or where no planned capital improvement by a governmental entity is contemplated, or the improvement is required to meet the minimum standard of the approving authority, the applicant shall be solely responsible for the cost and installation of the required off-tract improvements. The applicant shall elect to either install the off-tract improvements or pay the municipality for the cost of the installation of the required off-tract improvements.

- (4) Performance guaranty. If the applicant elects to construct the improvements, the applicant shall be required to provide, as a condition of final approval, a performance guaranty for the off-tract improvements in accordance with N.J.S.A. 40:55D-53 and K(2) above.
- (5) Certification of costs. Once the required off-tract improvements are installed and the performance bond released, the developer shall provide a certification to the Borough Engineer of the actual costs of the installation. The Borough Engineer shall review the certification of costs and shall either accept them, reject them, or conditionally accept them. In the review of costs, the Borough Engineer shall have the right to receive copies of invoices from the developer sufficient to substantiate the certification. Failure of the developer to provide such invoices within six months of the Borough Engineer's request shall constitute forfeiture of the right of future reimbursement for improvements that benefit other.
- (6) Time limit for reimbursement. Notwithstanding any other provisions to the contrary, no reimbursement for the construction of off-tract improvements providing excess capacity shall be made after 10 years has elapsed from the date of the acceptance of the certification of costs by the Borough Engineer.

L. General.

- (1) All applications within the Residential Multifamily-3 District shall include a statement from the developer or its professional that the proposed development is in compliance with § 153-4H of the Borough of Demarest Code.
- (2) All applications within the Residential Multifamily-3 District shall comply with § 153-4, Performance standards.
- (3) Site plans submitted as part of any application within the Residential Multifamily-3 District shall be prepared in accordance with § 153-5.

SECTION 4. Zoning Map. The Official Zoning Map shall be amended to rezone Block 63, Lot 5 from the R-B Single-Family Residence District to the R-MF-3 Residential Multifamily-3 District.

SECTION 5. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

SECTION 6. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible.

This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

SECTION 7. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

SECTION 8. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

Municipal Clerk

Mayor Brian Bernstein

Introduced: February 25, 2026

Adopted:

**BOROUGH OF DEMAREST
COUNTY OF BERGEN**

ORDINANCE #1175-26

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 175 “ZONING”,
ARTICLE VIII “ADMINISTRATION”, SECTION 175-34 “DEVELOPMENT FEES” TO
UPDATE THE BOROUGH’S DEVELOPMENT FEE ORDINANCE IN ACCORDANCE
WITH THE DECEMBER 2025 N.J.A.C. 5:99 REGULATIONS AND THE AMENDED
FAIR HOUSING ACT**

WHEREAS, the Borough of Demarest filed a Declaratory Judgment Action on January 29, 2025 seeking a certification of compliance with the Fair Housing Act, and

WHEREAS, Demarest Planning Board adopted the 2025 Housing Element & Fair Share Plan for the Fourth Round on June 5, 2025, which was duly endorsed by the Borough Council, and timely filed with the Affordable Housing Dispute Resolution Program; and

WHEREAS, the Demarest Planning Board has adopted an Amended 2025 Housing Element & Fair Share Plan for the Fourth Round, which has been endorsed by the Borough Council; and

WHEREAS, the Borough has entered into a Mediation Agreement with Fair Share Housing Center that requires all of the implementing documents, including a Development Fee Ordinance to be adopted by March 15, 2026; and

WHEREAS, new N.J.A.C. 5:99 regulations were adopted in December of 2025; and

WHEREAS, the Borough seeks to update its existing Development Fee Ordinance to reflect the new regulations.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Demarest, County of Bergen, State of New Jersey, that the following amendments be made to the Municipal Code of the Borough of Demarest:

SECTION 1. Chapter 175 “Zoning”, Article VIII “Administration”, Section 175-34 “Development Fees” be deleted in its entirety and replaced as follows:

§ 175-34 Development fees.

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

B. Basic requirements.

- (1) The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- (2) The municipality shall not spend development fees until the court has approved a plan for spending such fees.

C. Definitions. The following terms when used in this section shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING MONITORING SYSTEM OR AHMS

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

AFFORDABLE HOUSING TRUST FUND OR AHTF

The non-lapsing, revolving trust fund established in the Department pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes.

COAH OR THE COUNCIL

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

DEPARTMENT

The New Jersey Department of Community Affairs.

DEVELOPER

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

DEVELOPMENT FEE

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

EQUALIZED ASSESSED VALUE OR EAV

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

D. Residential development fees

(1) Imposed fees.

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

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

(2) Eligible exactions, ineligible exactions and exemptions for residential development.

- (a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination

of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.

- (b) Developments that have received preliminary or final site plan approval prior to the adoption of this subsection and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- (c) Development fees shall be imposed and collected when an existing structure is expanded by 1,000 or more square feet of livable space. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (d) No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

E. Non-residential development fees.

(1) Imposition of fees.

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

(2) Eligible exactions, ineligible exactions and exemptions for non-residential development.

- (a) The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
 - (b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- (5) If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

F. Collections procedures.

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.

- (4) Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- (5) The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- (8) Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

G. Appeal of development fees.

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

H. Affordable Housing Trust Fund.

- (1) A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of

depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

- (2) The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - (b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- (3) The municipality shall provide the Department with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Department and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- (4) Occurrence of any of the deficiencies outlined in N.J.A.C. 5:99 may result in the Department requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund.
- (5) All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

I. Use of funds.

- (1) The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program;

conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.

- (2) Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- (3) At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (b) Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- (4) No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

J. Monitoring.

- (1) On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments

in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

K. Ongoing collection of fees.

- (1) The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- (2) If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance or Compliance Certification, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

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

SECTION 2. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

SECTION 3. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

SECTION 4. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

SECTION 5. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

Municipal Clerk

Mayor Brian Bernstein

Introduced: February 25, 2026

Adopted:

**BOROUGH OF DEMAREST
COUNTY OF BERGEN**

ORDINANCE #1176-26

AN ORDINANCE DELETING AND REPLACING ARTICLE X “AFFORDABLE HOUSING OBLIGATIONS” OF CHAPTER 175 “ZONING”, TO BE CALLED “AFFORDABLE HOUSING”, AND DELETING SECTIONS 175-46 THROUGH 175-46.5 TO UPDATE THE BOROUGH’S AFFORDABLE HOUSING ORDINANCE IN ACCORDANCE WITH THE DECEMBER 2025 UNIFORM HOUSING AFFORDABILITY CONTROLS, THE N.J.A.C. 5:99 REGULATIONS, AND THE AMENDED FAIR HOUSING ACT

WHEREAS, the Borough of Demarest filed a Declaratory Judgment Action on January 29, 2025, seeking a certification of compliance with the Fair Housing Act, and

WHEREAS, Demarest Planning Board adopted the 2025 Housing Element & Fair Share Plan for the Fourth Round on June 5, 2025, which was duly endorsed by the Borough Council, and timely filed with the Affordable Housing Dispute Resolution Program; and

WHEREAS, the Demarest Planning Board has adopted an Amended 2025 Housing Element & Fair Share Plan for the Fourth Round, which has been endorsed by the Borough Council; and

WHEREAS, the Borough has entered into a Mediation Agreement with Fair Share Housing Center that requires all of the implementing documents, including an Affordable Housing Ordinance to be adopted by March 15, 2026; and

WHEREAS, new Uniform Affordability Housing Controls regulations and N.J.A.C. 5:99 were adopted in December of 2025; and

WHEREAS, the Borough seeks to delete and replace its existing Affordable Housing Ordinance to reflect the new regulations.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Demarest, County of Bergen, State of New Jersey, that the following amendments be made to the Municipal Code of the Borough of Demarest:

SECTION 1. Chapter 175 “Zoning”, Article IX “Affordable Housing District”, Sections § 175-46 through 46.5 shall be deleted in their entirety and replaced with the text “Reserved”.

SECTION 2. Chapter 175 “Zoning”, Article X “Affordable Housing Obligations” be deleted in its entirety and replaced as follows:

Article X Affordable Housing

§ 175-47 Purpose and applicability.

- A. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the Borough of Demarest consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
- B. This article is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This article shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere affirmative marketing and random selection procedures set forth in UHAC.
- C. The Demarest Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
- D. This article implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- E. Applicability.
 - (1) Nothing hereinto shall be interpreted to deprive the Borough of any rights, including the right to seek approval of any waivers permitted under UHAC or other relevant sources of law.

- (2) The provisions of this article shall apply to all affordable housing developments and affordable housing units that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
- (3) This article shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
- (4) Projects receiving federal Low Income Housing Tax Credit financing and proposed for credit in the Borough's most recently adopted HEFSP shall comply with the affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

§ 175-48 **Definitions.** The following terms when used in this section shall have the meanings given in this section:

ACCESSORY APARTMENTS

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

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

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

AFFIRMATIVE MARKETING

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

AFFIRMATIVE MARKETING PLAN

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

AFFIRMATIVE MARKETING PROCESS OR PROGRAM

The actual undertaking of Affirmative Marketing activities in furtherance of each project with very low- low- and moderate-income units.

AFFORDABILITY ASSISTANCE

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM OR THE PROGRAM

The dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

AFFORDABLE HOUSING MONITORING SYSTEM OR AHMS

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

AFFORDABLE HOUSING TRUST FUND OR AHTF

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

AFFORDABLE UNIT

A housing unit proposed or developed pursuant to the Act, including units created with municipal affordable housing trust funds.

AGE-RESTRICTED HOUSING

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

AGENCY

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

ASSISTED LIVING RESIDENCE

A facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

BARRIER-FREE ESCROW

The holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

BUILDER'S REMEDY

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

CERTIFIED HOUSEHOLD

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

CHOICE

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

COAH OR THE COUNCIL

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

COMMISSIONER

The Commissioner of the Department of Community Affairs.

COMPLIANCE CERTIFICATION

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

CONSTRUCTION

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

COUNTY-LEVEL HOUSING JUDGE

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

DCA AND DEPARTMENT

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEPARTMENT

The New Jersey Department of Community Affairs.

DEVELOPER

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

DEVELOPMENT

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

DEVELOPMENT FEE

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

DISPUTE RESOLUTION PROGRAM

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

DIVISION

The Division of Local Planning Services within the Department of Community Affairs.

EMERGENT OPPORTUNITY

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

EQUALIZED ASSESSED VALUE OR EAV

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

EQUITY SHARE AMOUNT

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

EXIT SALE

The first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

EXCLUSIONARY ZONING LITIGATION

Litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

EXTENSION OF EXPIRING CONTROLS

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

FAIR SHARE OBLIGATION

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

FAIR SHARE PLAN

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

FHA

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

GREEN BUILDING STRATEGIES

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

HMFA OR THE AGENCY

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

HOUSEHOLD INCOME

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

HOUSING ELEMENT

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

HOUSING REGION

A geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

INCLUSIONARY DEVELOPMENT

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

JUDGMENT OF COMPLIANCE OR JUDGMENT FOR REPOSE

A determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

LOW-INCOME HOUSEHOLD

A household with a household income equal to 50 percent or less of the regional median income.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

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

MIXED USE DEVELOPMENT

Any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities maybe considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or

otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

MODERATE-INCOME HOUSEHOLD

A household with a household income in excess of 50 percent but less than 80 percent of the regional median income.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MONI

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

MUNICIPAL HOUSING LIAISON OR MHL

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

MUNICIPAL AFFORDABLE HOUSING TRUST FUND

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

MUNICIPAL DEVELOPMENT FEE ORDINANCE

An ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

NEW CONSTRUCTION

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

NEW JERSEY AFFORDABLE HOUSING TRUST FUND

An account established pursuant to N.J.S.A. 52:27D-320.

NEW JERSEY HOUSING RESOURCE CENTER OR HOUSING RESOURCE CENTER

The online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

95/5 RESTRICTION

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

NON-EXEMPT SALE

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

NONPROFIT

An organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

NON-RESIDENTIAL DEVELOPMENT

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

NON-RESIDENTIAL DEVELOPMENT FEE

The fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

ORDER FOR REPOSE

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

PAYMENT IN LIEU OF CONSTRUCTING AFFORDABLE UNITS

The prior approval of the payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

PERSON WITH A DISABILITY

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

PRICE DIFFERENTIAL

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

PRIOR ROUND UNIT

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

PROGRAM

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

PROSPECTIVE NEED

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

QUALIFIED URBAN AID MUNICIPALITY

A municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

RANDOM SELECTION PROCESS

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

RCA ADMINISTRATOR

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

RCA PROJECT PLAN

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

RECEIVING MUNICIPALITY

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

RECONSTRUCTION

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

hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

RECREATIONAL FACILITIES AND COMMUNITY CENTERS

Any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

REGIONAL CONTRIBUTION AGREEMENT OR RCA

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

REGIONAL MEDIAN INCOME

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

REHABILITATION

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

RENT

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

RESIDENTIAL DEVELOPMENT FEE

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

RESTRICTED UNIT

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

SPENDING PLAN

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

STATE DEVELOPMENT AND REDEVELOPMENT PLAN OR STATE PLAN

The plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c. 398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c. 398 (C.52:18A-200).

SUPPORTIVE HOUSING HOUSEHOLD

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

SUPPORTIVE HOUSING SPONSORING PROGRAM

Grant or loan program which provided financial assistance to the development of the unit.

SUPPORTIVE HOUSING UNIT

A restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a

single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project's Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. Supportive housing units are also referred to as permanent supportive housing units.

TRANSITIONAL HOUSING

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

TREASURER

The Treasurer of the State of New Jersey.

UHAC

The Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

UHORP

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

UNIT TYPE

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

VERY-LOW-INCOME HOUSEHOLD

A household with a household income less than or equal to 30 percent of the regional median income.

VERY-LOW-INCOME HOUSING

Housing affordable, according to the Federal Department of Housing and Urban Development or other recognized standards, for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median

gross household income for households of the same size within the housing region in which the housing is located.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very-low-income household.

VETERAN

A veteran as defined at N.J.S.A. 54:4-8.10.

VETERANS' PREFERENCE

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

WEATHERIZATION

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.

§ 175-49 Monitoring and reporting requirements.

A. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

- (1) The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS).
- (2) On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.
- (3) On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

§ 175-50 Borough-wide set-aside ordinance.

- A. Any property in the Borough of Demarest that receives a use variance, density variance increasing the permissible density at the site, a rezoning permitting multifamily residential housing where not previously permitted or a new redevelopment plan, to permit multifamily residential development, which would yield five or more additional units (over and above those already permitted as of right), that are developed at a density of six or more units per acre, shall provide a minimum affordable housing set-aside of 20% regardless of tenure.
- B. This requirement shall not apply to sites zoned for inclusionary residential development to meet the Realistic Development Potential or the overlay zones created to meet the unmet need as part of the Borough's Housing Element and Fair Share Plan, which shall comply with the applicable zoning or redevelopment plan requirements of providing affordable housing units.
- C. This requirement does not and shall not be construed to grant any developer the right to any rezoning, variance, redevelopment designation or other relief or establish any obligations on the part of the municipality to grant such rezoning, variance, redevelopment designation or other relief.
- D. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.
- E. All affordable units created pursuant to this section shall be governed by the provisions of Article X Affordable Housing.

§ 175-51 Fractional units and subsidy payments.

- A. Inclusionary developments that result in a fractional affordable housing obligation of 0.49 or less may round the number of affordable units down. The application shall make a prorated subsidy payment to cover the fraction.
- B. If the required number of affordable units results in a fraction of 0.5 or greater, the applicant shall round up and provide the additional affordable unit.
- C. The subsidy payment for Demarest shall be \$247,200 for 2026. The subsidy payment shall increase by 3% each year. To calculate the subsidy payment, the developer shall multiply the fraction by the payment. For example, a fraction of 0.4 triggered in 2026 would require a payment of \$98,880. The payment shall be made to the Borough's Affordable Housing Trust Fund.

§ 175-52 Affordable housing programs.

- A. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, "All parties

shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.

§ 175-53 New construction programs.

- A. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
- B. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

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

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

(1) Design of 100 percent affordable developments:

- (a) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

[1] Each bedroom in each restricted unit must have at least one window.

[2] Restricted units must include adequate air conditioning and heating.

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

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

D. Utilities.

- (1) Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
- (2) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).

E. Low/moderate split and bedroom distribution.

- (1) Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (2) In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
- (3) Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
- (4) Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - (a) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - (b) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - (c) The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units.
 - (d) At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units.
 - (e) At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units.

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

F. Accessibility requirements.

- (1) Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
- (2) Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel, however an interior accessible route of travel shall not be required between stories;
 - (d) An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;

- (e) If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
- (f) An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4] The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
- (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

G. Accessory apartment program.

- (1) An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units.

- (2) Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
- (3) Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.
- (4) 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 for the duration of the control period.
- (5) The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
- (6) Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$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. The subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates. Demarest will provide \$75,000 per unit to subsidize the creation of accessory apartments.

H. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).

- (1) The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - (a) The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - (b) Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - (c) Occupancy shall not be restricted to youth under 18 years of age.
 - (d) In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - (e) The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - [1] Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be

affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;

[2] Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).

- (f) With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.
- (g) Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- (h) The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:

[1] If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.

- (i) The sponsor/owner shall complete annual monitoring as directed by the MHL.

§ 175-54 **Regional income limits.**

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

§ 175-55 Maximum initial rents and sales prices.

- A. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
- B. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
- C. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
- D. 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. Very low-income units, if required, should be distributed between each bedroom count as proportionally as possible to the total number of restricted units within each bedroom count, and shall be part of the low-income requirement.
- E. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
- F. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
- G. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:

- (1) A studio or efficiency unit shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (3) A two-bedroom unit shall be affordable to a three-person household;
 - (4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (5) A four-bedroom unit shall be affordable to a six-person household.
- H. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
- (1) A studio or efficiency unit shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
- I. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
- J. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

1. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following a minimum 90-day notice provided to the occupant household, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3 and published by the Agency. This rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

§ 175-56 Affirmative marketing.

- A. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, 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, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5-1 et seq., and age-restricted units as permitted pursuant to 42 U.S.C. §§ 3601 et seq.), or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 1 and is required to be followed throughout the period of deed restriction.
- C. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - (1) Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-

311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.

- (2) There shall be a regional preference for all households that live and/or work in Housing Region 2 comprising Bergen, Hudson, Passaic, and Sussex Counties.
 - (3) Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - (4) With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
- E. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent should consider the use of language translations where appropriate.
- F. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
- G. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph. Notice shall also be provided to Fair Share Housing Center Latino Action Network, Bergen County NAACP, Bergen Urban League, Bergen County Housing Coalition, and Supportive Housing Association.

- H. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of HUD-certified housing counselors or otherwise experienced entities approved by the Division providing counseling services on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- I. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy and may begin before construction commences. For owner-occupied units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.
- J. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of owner-occupied units, in which case, applications must be accepted for no less than 30 days.
- K. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

§ 175-57 Selection of occupants of affordable housing units.

- A. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
- B. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

§ 175-58 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) Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - (2) Provide a bedroom for every two adult occupants;

- (3) With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
- (4) Avoid placing a one-person household into a unit with more than one bedroom.

§ 175-59 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. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
- B. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction for units CO'd after December 15, 2025.
- D. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
- E. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - (1) If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - (2) If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
- F. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
- G. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the

nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

- H. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this article, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- I. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

§ 175-60 Price restrictions for restricted ownership units and resale prices.

- A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - (1) The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 - (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.
 - (a) If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for the unit is the most recent non-exempt purchase price.
 - (b) If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
 - (3) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
 - (a) Those that render the unit suitable for a larger household or the addition of a bathroom.
 - (b) The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-

exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);

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

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 175-61 Buyer income eligibility.

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

B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and

pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.

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

- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

§ 175-62 Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

§ 175-63 Control periods for restricted rental units.

- A. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432 and shall remain subject to the requirements of this article for a period of at least 30 years as applicable unless otherwise indicated.
- B. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
- C. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
- D. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
- E. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
- F. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.

G. A restricted rental unit shall remain subject to the affordability controls of this article 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;
- (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
- (4) The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

§ 175-64 Rent restrictions for rental units; leases and fees.

- A. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
- B. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.
- C. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 - (1) Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
- D. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this article.
- E. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.

- F. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
- G. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
- H. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

§ 175-65 Tenant income eligibility.

- A. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;

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

§ 175-66 Municipal Housing Liaison.

- A. The Municipal Housing Liaison shall be approved by municipal resolution.
- B. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - (1) Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - (2) The oversight of the Affirmative Marketing Plan and affordability controls.
 - (3) When applicable, overseeing and monitoring any contracting Administrative Agent.
 - (4) Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - (5) Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - (6) Coordinating meetings with affordable housing providers and administrative agents, as needed.
 - (7) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.

- (8) Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
- (9) Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
- (10) Listing on the municipal website contact information for the MHL and Administrative Agents.

§ 175-67 Administrative Agent.

- A. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
- B. The fees for administrative agents shall be paid as follows:
 - (1) Administrative agent fees related to rental units shall be paid by the developer/owner.
 - (2) Administrative agent fees related to initial sale of units shall be paid by the developer.
 - (3) Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - (4) Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
- C. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
- D. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - (2) Affirmative marketing;

- (a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - (b) Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
- (3) Household certification.
- (a) Soliciting, scheduling, conducting and following up on interviews with interested households.
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 business days of the determination thereof.
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - (f) Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
- (4) Affordability controls.
- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - (b) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.

- (c) Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - (d) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- (5) Records retention.
- (a) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - (b) Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- (6) Resales and re-rentals.
- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - (b) Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- (7) Processing requests from unit owners.
- (a) Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this article.
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
 - (c) Notifying the municipality of an owner's intent to sell a restricted unit.
 - (d) Making determinations on requests by owners of restricted units for hardship waivers.

(8) Enforcement.

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

§ 175-68 Responsibility of the owner of a development containing affordable units.

- A. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
- (1) Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - (2) The total number of units in the project and the number of affordable units.
 - (3) The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine

the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.

- (4) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
- (5) A projected construction schedule.
- (6) The location of any common areas and elevators.
- (7) The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.

B. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:

- (1) Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
- (2) Provide to the administrative agent a description of any applicable fees.
- (3) Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
- (4) Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
- (5) Provide to the administrative agent a proposed form of lease for any rental units.
- (6) Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
- (7) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

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

- (1) Proposed pricing for all units, including any purchaser options and add-on items.
- (2) Realistic condominium or homeowner association fees and any other applicable fees.
- (3) Estimated real property taxes.
- (4) Sewer, water, trash disposal, and any other utility assessments.
- (5) Flood insurance requirement, if applicable.
- (6) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§ 175-69 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 an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (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:
 - (a) A fine of not more than \$1,000 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

- (b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- C. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
- D. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (1) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - (2) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in

escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- (3) Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this 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.
 - (4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
 - (5) Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.
 - (6) The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
- E. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable

affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

- F. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
- G. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.

H. Appeals

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

SECTION 3. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

SECTION 4. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

SECTION 5. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

SECTION 6. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

Julie Falkenstern, RMC
Municipal Clerk

Brian Bernstein
Mayor

Introduced: February 25, 2026
Adopted:

ORDINANCE NO. 1177-26

ORDINANCE OF THE BOROUGH OF DEMAREST ADOPTING THE AMENDED
REDEVELOPMENT PLAN PRODUCED BY COLLIER'S ENGINEERING ON BEHALF OF THE
BOROUGH OF DEMAREST

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment, and to adopt and subsequently amend redevelopment plans for such areas; and

WHEREAS, the Borough of Demarest (hereinafter "the Borough") by Council resolution dated July 24, 2017, designated the following tax lots as an area in need of rehabilitation: Block 23, Lots 9, 10, 12, 13, 14, 15, 16, 17.01, 17.02, 19, 20, 21 and 23, Block 46, Lots 39.01, 40.01, 41.02, 41.01, 50, 51, 52, 664, 760 and 764, Block 49.01, Lots 43.01, 43.02, 44, 45 and 47.02, and

WHEREAS, by Ordinance #1075-20, adopted on February 22, 2020, the Borough Council approved and adopted a redevelopment plan for the Original Redevelopment Area, entitled "Downtown Redevelopment Plan for 23 Properties" (the "Original Redevelopment Plan"); and

WHEREAS, the plan was thereafter amended by Ordinance #1094-21, adopted by the Borough Council, after a hearing, on July 26, 2021 and again by Ordinance #1170-25 adopted by the Borough Council, after a hearing, on November 10, 2025; and

WHEREAS, the Borough's Joint Planning Board ("Board") adopted the HEFSP, entitled Housing Element and Fair Share Plan prepared by Darlene A. Green, P.P., AICP of Colliers Engineering & Design, dated May 16, 2025 ("2025 HEFSP"), as an amendment to Borough's Master Plan on June 5, 2025; and

WHEREAS, Fair Share Housing Center filed a challenge to the Borough's 2025 Housing Element and Fair Share Plan; and

WHEREAS, Mediation was held between the Borough and Fair Share Housing Center as part of the Affordable Housing Dispute Resolution Program, which resulted in a Mediation Agreement dated December 29, 2025; and

WEHREAS, the Borough wishes to implement the recommendations as required by the Mediation Agreement; and

WHEREAS, having reconsidered the Redevelopment Plan, the Borough Council has concluded that the Redevelopment Plan requires revisions and amendments to conform to the goals set forth in the 2025 HEFSP; and

WHEREAS, a revised and amended Downtown Redevelopment Plan dated January 12, 2026, has been drafted and submitted by Colliers Engineering & Design; and

WHEREAS, the revised Redevelopment Plan conforms to the Borough's Master Plan and the adopted 2025 HEFSP and will provide realistic opportunity for the construction of affordable dwellings units in the above referenced area.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Demarest, Bergen County, State of New Jersey, hereby adopt the revised and amended Redevelopment Plan dated January 12, 2026, prepared by Colliers Engineering & Design on behalf of the Borough; and

BE IT FURTHER ORDAINED, that a copy of this Ordinance, and the Redevelopment Plan, shall be served upon the Planning Board of the Borough of Demarest for review and comment after introduction on first reading hereof; and

BE IT FURTHER ORDAINED, that upon adoption, this Ordinance, and the Redevelopment Plan shall be served upon the Commissioner of Community Affairs.

Borough of Demarest

BY: _____
BRIAN BERNSTEIN, MAYOR

Attest:

Julie Falkenstern-Borough Clerk

Introduced: February 25, 2026

Adopted:

Resolution of the Demarest Governing Body

Resolution No. 068-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS

WHEREAS, an emergent condition has arisen with respect to municipal appropriations; and

WHEREAS, no adequate provision has been made in the 2026 temporary budget for the aforesaid purpose, and N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriation for the purpose above mentioned; and

WHEREAS, the total emergency temporary resolutions adopted in the year 2026 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$4,004,247.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Demarest (not less than two-thirds of all members affirmatively concurring) that in accordance with the provisions of N.J.S. 40A:4-20 that emergency temporary appropriations be made and that said emergency temporary appropriations shall be provided for in full by 2026 current fund appropriations:

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstem, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9,, 2026

Julie Falkenstem, RMC
Borough Clerk

Resolution of the Demarest Governing Body

Resolution No. 069-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: CANCELLATION OF SPECIAL EMERGENCY AUTHORIZATION FOR THE COST OF EXTRAORDINARY EXPENSES FOR THE REPAIR AND RECONSTRUCTION OF DEMAREST, CRESSKILL AND TENAKILL BROOKS OR OTHER PROPERTY DAMAGED BY FLOOD OR HURRICANE

WHEREAS, a special emergency appropriation was approved on September 19, 2022, by the Borough Council of the Borough of Demarest for the cost of extraordinary expenses for the repair and reconstruction of Demarest, Cresskill and Tenakill Brooks or other property damaged by flood or hurricane in the amount of \$175,000 and,

WHEREAS, the Borough has finalized all costs associated with the repairs and/or reconstruction and desires to cancel \$70,000 of this special emergency appropriation thereby reducing said special emergency appropriation to \$105,000, and

NOW, THEREFORE, BE IT RESOLVED, (by not less than 2/3 of all Governing Body affirmatively concurring) that in accordance with N.J.S.A. 40A:4-48:

1. The special emergency appropriation for the cost of extraordinary expenses for the repair and reconstruction of Demarest, Cresskill and Tenakill Brooks or other property damaged by flood or hurricane in the amount of \$175,000 is reduced to \$105,000.
2. That said special emergency appropriation of \$105,000 has been provided for in the 2023, 2024 and 2025 budgets.
3. That two (2) certified copies of this Resolution be filed with the Director of the Division of Local Government Services.

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

Resolution of the Demarest Governing Body

Resolution No. 070-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

**TITLE: A RESOLUTION OF THE BOROUGH OF DEMAREST
ADOPTING FOURTH ROUND AFFORDABLE HOUSING SPENDING PLAN**

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 which amended various provisions of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq. (“Amended FHA”)); and

WHEREAS, the Amended FHA sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 (“Fourth Round” or “Round Four”); and

WHEREAS, A municipality may not spend or commit to spend any affordable housing development fees, without first obtaining the approval of the expenditure as part of its compliance certification or by the New Jersey Department of Community Affairs (DCA); and

WHEREAS, the Governing Body of the Borough of Demarest, County of Bergen, State of New Jersey, adopted a development fee ordinance on September 27, 2001; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or any other funds collected for affordable housing purposes; and

WHEREAS, the Borough has prepared an Affordable Housing Trust Fund Fourth Round Spending Plan, dated February 2026; and

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Demarest, Bergen County, New Jersey, that the Borough hereby adopts the 2026 Affordable Housing Trust Fund Spending Plan, dated February 2026, prepared by Colliers Engineering & Design, which is attached hereto and incorporated herein.

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

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

2026 AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

Borough of Demarest

Council Approval: _____, 2026

I. INTRODUCTION

The Borough of Demarest, Bergen County has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (NJSA 40:55D-1 et seq.), the Amended Fair Housing Act (NJSA 52:27D-301), and the applicable affordable housing regulations (NJAC 5:91-1 et seq., NJAC 5:93-1 et seq., NJAC 5:97 et seq., and NJAC 5:99 et seq.). The Borough adopted a development fee ordinance on August 20, 2001. This original development fee ordinance was approved by COAH on September 27, 2001. The development fee ordinance was then updated in April of 2010 via Ordinance #971. COAH approved this updated ordinance with the Borough's Third Round petition. The amended development fee ordinance was approved by COAH on March 17, 2009. Demarest then adopted a new Development Fee Ordinance in accordance with the Settlement Agreement via Ordinance #1067-19 on July 29, 2019.¹ The ordinance establishes the Borough of Demarest's affordable housing trust fund for which this spending plan is prepared.

II. REVENUES FOR CERTIFICATION PERIOD

As of December 31, 2024, the Borough of Demarest has collected \$4,926,058.06 and expended \$1,035,517.77, resulting in a balance of \$3,890,540.29. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Citizens Bank for the purposes of affordable housing. These funds shall be spent in accordance with NJAC 5:99-2.3, as described in the sections that follow.

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

(a) Development fees:

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

(b) Payment in lieu (PIL):

- Actual and committed payments in lieu (PIL) of construction from developers as follows: Payment in lieu from Sylco Investments 6, 8, 9, and 10, LLC ("Sylco"). Sylco committed to pay a total of \$1 million in lieu of five affordable units. The payment was structured to be received in three installments, \$250,000 when site work commences, \$250,000 when the first building permit is issued, and \$500,000 when the tenth Certificate of Occupancy is issued. The first two payments have been received and the \$500,000 is expected to be paid in 2025 or 2026.

(c) Other funding sources:

- Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income and proceeds from the sale of affordable units. No funds are anticipated at this time.

(d) Projected interest:

- Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. The Borough projects collecting \$36,659.27 between 2025 and 2035.

The Borough of Demarest projects a total of \$1,564,128.77 in revenue to be collected between January 1, 2025 and December 31, 2035. This projected amount, when added to the Borough of Demarest's trust fund balance as of December 31, 2024, results in an anticipated total revenue of \$5,454,669.06 available to fund and administer its affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing. See the table on the following page for the projected revenues.

PROJECTED REVENUES - AFFORDABLE HOUSING TRUST FUND

Source of Funds	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
(a) Development fees:												
Development Pending Approval	\$0	\$0	\$86,802	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$86,802.00
Approved Development**	\$257,102	\$65,102	\$10,850	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$333,053.50
Projected Residential Development	\$0	\$0	\$0	\$86,802	\$65,102	\$86,802	\$65,102	\$86,802	\$65,102	\$86,802	\$65,102	\$607,614.00
Projected Non-Res. Development												\$0.00
(b) Payments in Lieu of Construction												\$500,000.00
(c) Other Funds												\$0.00
(d) Interest	\$18,170	\$1,562	\$2,344	\$2,083	\$1,562	\$2,083	\$1,562	\$2,083	\$1,562	\$2,083	\$1,562	\$36,659.27
Total	\$775,272	\$66,664	\$99,996	\$88,885	\$66,664	\$88,885	\$66,664	\$88,885	\$66,664	\$88,885	\$66,664	\$1,564,128.77

*For purposes of projecting revenues, we have utilized historic residential Certification of Occupancy data that occurred between 2013 and 2024. Projections assume the estimated value of a new home is \$1,446,700. The average assessed value was provided by the Borough's CFO. The value is then multiplied by 1.5%.

**2025 Approved Development also includes \$137,749 collected between January and April.

III. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Demarest:

(a) Collection of development fee revenues:

- Collection of development fee revenues shall be consistent with the Borough of Demarest's development fee ordinance for both residential and non-residential developments in accordance with NJAC 5:91, 5:93, and 5:99, the Amended Fair Housing Act, and the Municipal Land Use Law.

(b) Distribution of development fee revenues:

- The Administration forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution. The release of the funds requires the adoption of the governing body resolution in accordance with the Court- and/or Program-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

IV. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Municipally Sponsored Projects (NJAC 5:93-5.5)

- See section (d) below for a description of municipally sponsored projects where the funding will enable the construction of the project.

(b) Alternative Living Arrangement (NJAC 5:93-5.8)

- See section (d) below for a description of alternative living arrangements (supportive/special needs housing) where the funding will enable the construction of the project.

(c) Accessory Apartment Program (NJAC 5:93-5.9)

- The Borough of Demarest has an accessory apartment program. The Borough will be increasing the subsidy from \$25,000 to \$75,000 to incentivize the creation of accessory apartments. This document has set aside funding for five units. If more than five units apply for the program, the Borough will reduce the funding allocated to the "future affordable housing opportunities" line item.

(d) Affordability Assistance (NJAC 5:99-2.5(a))

- Municipalities are required to “set aside a portion of all development fees collected and interest earned for the purpose of providing affordability assistance to very-low, low-, and moderate-income households in affordable units included in the municipality’s fair share plan”. The regulations do not specify a certain percentage that must be attained, but for purposes of this document, a goal of 20% has been set. The actual affordability assistance expenditures are calculated on an ongoing basis in the online Affordable Housing Monitoring System platform.
- According to the following chart, the Borough of Demarest has set a goal of 20% of all fees and interest earned to be reserved for affordability assistance. This goal translates to \$1,140,180.57. Through December 31, 2024 the Borough has spent \$0 from the affordable housing trust fund to render units more affordable.
- The Borough proposes the following affordability assistance programs:
 - **127 Hardenburgh Avenue.** The Third Round Spending Plan included \$530,000 for the 100% affordable project located at 127 Hardenburgh Avenue. Portions of this funding were tied to certain project milestones. BCUW has received Planning Board approval to construct a 17-unit building. To date the Borough has paid BCUW \$214,387.36. Therefore, \$315,612.64 remains to be paid.
 - **127 Hardenburgh Avenue Very-Low Income Unit.** Pursuant to the Court-approved Third Round Spending Plan, this site was required to contain at least one very-low-income unit. To help balance the development’s pro-forma, the Borough will pay the developer a one-time payment of up to \$400,000 once the very-low-income unit receives its certificate of occupancy. At the Borough’s option, half of this payment may be released when the building permit is issued.
 - **127 Hardenburgh Avenue, Additional Funds for Shortfall in Funding.** Due to outside forces beyond the Borough and BCUW’s control, some of the envisioned State funding is no longer available to assist the project. Therefore, Demarest is reserving \$3,296,248 to fill the funding gap. Of this total \$2,326,768 is to assist the 12 low- and moderate-income units and \$969,480 is to assist the five very-low-income units.
 - **Supportive/Special Needs Units – Very-Low-Income.** Demarest is seeking a vacant land adjustment as part of its Fourth Round housing compliance. However, if the opportunity arises over the next decade to partner with an entity to construct supportive / special needs affordable housing opportunities, Demarest would like to reserve funds to aid in bringing said

units to fruition. It is anticipated that the program would be structured to provide funding per unit or bed in exchange for a deed restricted unit / bed. A total of \$92,808,42 is anticipated, which is ultimately based on the development fees collected over the next ten years. This funding is specifically earmarked for very-low-income units.

AFFORDABILITY ASSISTANCE CALCULATION

Actual development fees through 12/31/2024		\$	4,397,377.01
Actual interest earned through 12/31/2024		\$	239,397.08
Development fees projected 2025-2035	+	\$	1,027,469.50
Interest projected 2025-2035	+	\$	36,659.27
Total	=	\$	5,700,902.86
Calculate 20 percent	x .20 =	\$	1,140,180.57
Less Affordability assistance expenditures through 12/31/2024	-	\$	-
Projected Minimum Affordability Assistance Requirement 1/1/2025 through 12/31/2035	=	\$	1,140,180.57

(e) Administrative Expenses (NJAC 5:99-2.4(a))

Municipalities are permitted to use affordable housing trust fund revenue for related administrative costs up to a 20% limitation, exclusive of funds collected to fund an RCA. The actual administrative expense maximum is calculated on an ongoing basis in the online Affordable Housing Monitoring System platform based on actual revenues.

The Borough of Demarest projects that \$1,907,265.64 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20% cap, are as follows:

- Affordable Housing Attorney, Engineer, Planner and Administrative Agent fees related to attaining affordable housing compliance as well as consulting fees related to the administration and implementation of the Borough's affordable housing programs.
- Salaries and benefits for municipal employees for administration and implementation of the housing plan and programs.

- Municipal Housing Liaison training and on-going education.

ADMINISTRATIVE EXPENSE CALCULATION

Actual dev fees and interest thru 12/31/2024		\$4,636,774.09
Projected dev fees and interest 2025 thru 2035	+	\$1,064,128.77
Payments-in-lieu of construction and other deposits thru 12/31/2024	+	\$289,283.97
Projected payments-in-lieu of construction and other desposits 2025 thru 2035	+	\$500,000.00
Total	=	\$6,490,186.83
Calculate 20 percent	x .20 =	\$1,298,037.37
Less admin expenditures thru 12/31/2024	-	\$ 609,228.27
Projected Maximum available for administrative expenses 2025 thru 2035	=	\$1,907,265.64

VI. EXCESS OR SHORTFALL OF FUNDS

In the event of any unexpected revenue shortfall, where funds are not sufficient to implement the plan, the Borough of Demarest will approve a resolution of intent to bond.

In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the Fair Share Plan, or the Borough of Demarest is reserving funds for affordable housing projects to meet a future affordable housing obligation, these excess funds will be used to offer additional group home assistance for new providers within the community.

VII. SUMMARY

The Borough of Demarest intends to spend affordable housing trust fund revenues pursuant to NJAC 5:99-2.6 and consistent with the housing programs outlined in the Fourth Round Housing Plan Element and Fair Share Plan.

The Borough of Demarest has a balance of \$3,890,540.29 as of December 31, 2024 and anticipates an additional \$1,564,128.77 in revenues through 2035 for a total of \$5,454,669.06. This Spending Plan demonstrates the Borough's commitment to expend \$5,454,669.06 through December 31, 2035, including a commitment to expend with respect to the following:

- Commitment to expend up to \$375,000.00 towards the creation of accessory apartments;
- Commitment to expend up to \$4,011,860.64 to incentivize the construction of 127 Hardenburgh Avenue;
- Commitment to expend up to \$92,808.42 for future very-low-income special needs/supportive housing units;
- Commitment to expend up to \$975,000.00 on administration.

SPENDING PLAN SUMMARY	
Balance as of December 31, 2024	\$3,890,540.29
Projected Revenue 2025-2035	
Development fees	+ \$1,027,469.50
Payments in lieu of construction	+ \$500,000.00
Other funds	+ \$0.00
Interest	+ \$36,659.27
TOTAL REVENUE	= \$5,454,669.06
Projected Expenditures 2025-2035	
Funds used for Projects	
1. Accessory Apartment Ordinance	- \$375,000.00
Affordability Assistance	- \$4,104,669.06
Administration	- \$975,000.00
Total Projected Expenditures	= \$5,454,669.06
Remaining Balance	= \$0.00

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Resolution of the Demarest Governing Body

Resolution No. 071-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: RESOLUTION ADOPTING AN “AFFIRMATIVE MARKETING PLAN” FOR BOROUGH OF DEMAREST

WHEREAS, in accordance with P.L. 2024, Chapter 2 and the New Jersey Uniform Housing Affordability Controls (“UHAC”)(N.J.A.C. 5:80-26.1 *et seq.*), the Borough of Demarest is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created are affirmatively marketed to very low-, low- and moderate-income households, particularly those living and/or working within Housing Region 1, the Housing Region encompassing the Borough of Demarest.

NOW, THEREFORE, BE IT RESOLVED, that Governing Body of the Borough of Demarest, County of Bergen, State of New Jersey, does hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

- A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Demarest is located in Housing Region 1, consisting of Bergen, Hudson, Passaic and Sussex Counties.
- B. The Borough of Demarest has a plan to address both its Prior Round Obligation (1987-2025) and its Fourth Round Obligation (2025-2035). This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low-, low- and moderate-income units, including those that are part of the municipality’s Housing Element and Fair Share Plan, and those that may

be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.

- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough of Demarest or the Administrative Agent of any specific developer approved by the municipality.
- D. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.
- E. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days prior to expected occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- F. The Affirmative Marketing Plan is a continuing program that shall be followed throughout the entire period of affordability restrictions. In implementing the Affirmative Marketing Plan, the Administrative Agent, whether acting on behalf of the Borough of Demarest or on behalf of a specific developer, shall meet the following requirements at a minimum:
 - 1. The primary marketing and advertising must be employed at the start of the marketing program and continue until all units are leased or sold or until the number of applications received is at least three times the number of units. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
 - 2. The advertisements shall, at a minimum, include:
 - a. The name and location of the housing project;
 - b. An address sufficient to find directions to the housing units;
 - c. A range of prices or rents for the affordable housing units;
 - d. The sizes, as measured in number of bedrooms of the affordable housing units;
 - e. The types (that is, family, age-restricted, or supportive) and number of affordable units available;
 - f. The number of units available to very low-, low-, and moderate-income households;
 - g. The accessibility features, if any, of the affordable housing units;
 - h. The maximum income permitted to qualify for the affordable housing units;
 - i. The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
 - j. Where applications (paper and online) for the affordable housing units may be found;
 - k. The expected lease-up/closing date(s) for the affordable housing units;
 - l. The expected date of the random selection;
 - m. The business hours when interested households may obtain paper applications for the affordable housing units;

- n. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
 - o. The name of the sales agent and/or rental manager; and
 - p. Application fees, if any.
3. Affirmative fair marketing of affordable units must be completed in accordance with the requirements set forth in UHAC at N.J.A.C. 5:80-26.16 in all media and outlets required by the rules.
 4. The Administrative Agent of the affordable housing development shall complete the Affirmative Fair Housing Marketing Plan, attached hereto as Attachment A, for review and approval by the Municipal Housing Liaison or the Township's Administrative Agent, as the case may be, prior to commencement of advertising to the public.
 5. Affordable units must be listed on the New Jersey Housing Resource Center's website (www.njhrc.gov) in accordance with N.J.A.C. 5:80-26.16(f)1 at least 60 days before the random selection.
 6. Applications, or notices thereof, used as part of the affirmative marketing program must be available in the following locations:

BUILDING	LOCATION
Bergen County Administration Building	One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000
Bergen County Library System	bccls@bccls.org
Hudson County Administration Building	595 Newark Avenue, Jersey City, NJ 07306 (201) 795-6000
Hudson County Library System	472 Jersey Ave, Jersey City, NJ 07302
Passaic County Administration Building	401 Grand Street, Paterson, NJ 07505 (973) 225-3632
Passaic County Library	195 Gregory Avenue, Passaic, NJ 07055 (973) 779-0474
Sussex County Administration Building	1 Spring Street, Newton, NJ 07860 (973)579-0200
Sussex County Main Library	125 Morris Turnpike, Newton, NJ 07860 (973)948-3660
Demarest Municipal Building	118 Serpentine Road, Demarest, NJ 07627
Demarest Free Library	90 Hardenburgh Avenue, Demarest, NJ 07627

7. The affirmative marketing shall include the following community and regional organizations: Fair Share Housing Center; the Latino Action Network; Bergen County NAACP; Urban League of Bergen County; Bergen County Housing Coalition and Supportive Housing Association

8. The municipality's Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.
- G. The municipality's Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.
- H. The municipality's Administrative Agent shall develop, maintain and update a list of major employers in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program.
- I. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the municipality's Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16(d) This Affirmative Marketing Plan provides a regional preference for very low-, low- and moderate-income households that live and/or work in Housing Region 1, which is comprised of Bergen, Hudson, Passaic, and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the municipality prior to the affirmative marketing of the units.
- J. All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the municipality's Administrative Agent.

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

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

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

Resolution of the Demarest Governing Body

Resolution No. 072-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: RESOLUTION APPROVING REFUND OF OVERPAYMENT OF TAXES DUE TO A 100% DISABLED VETERAN TAX EXEMPTION

=====

WHEREAS, the Department of Veterans Affairs has determined Fabian D. Gallego, owner of property at Block 52, Lot 26.02, 388 Piermont Road, Demarest, NJ 07627 is 100% totally disabled; and

WHEREAS, the Tax Assessor approved the 100% Disabled Veteran Tax Exemption effective January 1, 2026, and that Mr. Gallego is to be exempt from stated day forward in accordance with N.J.S.A. 54:4-3.30 et seq. as amended by P.L. 2019, c.413; N.J.A.C. 18:28-1.1 et seq.; and

WHEREAS, an escrow account check in the amount of \$4,927.43 representing payment for the 1st Quarter of 2026 property taxes was received from CoreLogic, 3001 Hackberry Road, Irving, TX 75063 and resulted in an overpayment of taxes due to the veteran tax-exempt status; and

WHEREAS, a written request was received from CoreLogic requesting a refund of the overpayment.

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer is hereby authorized to issue a refund in the amount of \$4,927.43 to CoreLogic Refunds Dept, 3001 Hackberry Road, Irving, TX 75063 and the Tax Collector adjust her records accordingly.

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

Resolution of the Demarest Governing Body

Resolution No. 073-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: RESOLUTION APPROVING SOIL MOVING PERMIT FOR 7 CHRISTIE ST.

BE IT RESOLVED by the Borough Council of the Borough of Demarest that the Soil Moving Application and Soil Erosion Control Plan for 7 Christie St., Block 38, Lot 653 prepared by Michael Dipple P.E., is hereby approved subject to the following conditions:

1. No topsoil shall be removed from the site.
2. The applicant shall indicate the location to which excess soil will be exported.
3. The applicant shall indicate the route of travel within the Borough.
4. The applicant shall provide for the cleaning of the streets used in the route of travel within the Borough.
5. The applicant shall provide the name of the person responsible for the soil movement.
6. The applicant shall be responsible for any damage done to Borough streets during the soil removal process.
7. The applicant shall ensure that the site is maintained in a safe and secure manner.
8. The applicant shall deposit, with the Borough, professional escrow in the amount of \$1075.75 for inspection services of the Borough Engineer and legal review.
9. The applicant shall provide a performance guarantee to the Borough in the amount of \$25,818.00.

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

February 24, 2026

Dot Haight
Building Department
Borough of Demarest
118 Serpentine Road
Demarest, NJ 07627

7 Christie Street
Block 38 Lot 653
Borough of Demarest, Bergen County, NJ
Soil Moving Application **Review #2** – Proposed Dwelling
Colliers Engineering & Design Project No. DEP0256

Dear Ms. Haight,

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a soil moving application in relation to the construction a new dwelling with associated driveway, walkways, patio, deck with pergola, drainage improvements and other related improvements on the property:

- a) Site plans consisting of nine (9) sheets, prepared and signed by Michael Dipple, PE, of L2A Land Design, LLC, dated October 1, 2024, last revised September 11, 2025;
- b) Architectural Plans consisting of six (6) sheets, prepared and signed by Robert E. Zampolin, A.I.A, dated March 5, 2025, **last revised February 9, 2026;**
- c) Soil Moving Application for the subject property, signed and dated December 23, 2025;
- d) Joint Planning Board Resolution JPB-010-25 dated August 6, 2025.
- e) **Cost Estimate prepared and signed by Michael Dipple, PE dated February 20, 2026.**

After our review of these documents, we offer the following comments in this matter:

General

1. The Property Owner/Applicant is:

7 Christie Street LLC
19 Sonoma Court
Old Bridge, NJ 08857

The Applicant/Owner shall notify the Borough of Demarest Zoning Board of Adjustment of any changes to the above information.

2. The site is currently occupied by occupied by a single-family dwelling with associated driveway, walkways, and other related improvements. The Applicant is proposing to construct a new

dwelling with associated driveway, walkways, patio, deck with pergola, drainage improvements and other related improvements.

3. The project site is located in the residential D Zone according to the Borough Zoning Map, where the construction of a single-family dwelling is permitted.
4. The property is an undersized rectangular shaped parcel consisting of 8,000 SF. The property is located north of Hardenburg Avenue with frontage on Christie Street. The property is located in Zone X (Areas outside the 0.2% chance annual floodplain) according to the FIRM map.
5. The Applicant is proposing to increase improved lot coverage from 1,792.45 SF (22.40%) to 2,916.02 SF (36.45%) with a net increase in coverage of 1,123.57 SF.
6. The Applicant previously appeared before the Demarest Joint Planning Board on July 2, 2025.

The Following Variances were granted:

- a. Maximum Building Coverage - The Applicant sought a building coverage of 1,884 SF (23.55%) where a maximum of 20% is permitted.
- b. Maximum Improved Coverage - The Applicant sought an improved coverage of 2,916.02 SF (36.45%) where a maximum of 30% is permitted.
- c. Maximum Residential and Parking Coverage - The Applicant sought a residential and parking coverage of 2,419.5 SF (30.24%) where a maximum of 25% is permitted.
- d. Maximum Livable Floor Area - The Applicant sought a livable floor area of 2,990 SF (37.38%) where a maximum of 30% is permitted.

The Applicant was approved for the above variances. The approval was memorialized by resolution adopted on 2/18/25 (Resolution JPB-010-25).

Resolution Compliance

Below is a summary of conditions outlined in the resolution of approval. Commentary on compliance with conditions is provided in **bold**:

1. Applicant shall comply with the Borough's Tree Removal and Protection Ordinance with respect to the removal and replacement of any trees on the Property. *The Applicant should comply. We defer to the Shade Tree Commission for final comment and approval of the proposed removal and replacement of trees.* **Continuing comment.**
2. Applicant shall revise their plans to reflect a patio in the rear of the Property instead of a deck. **The site plan now indicates a rear raised concrete patio. Comment addressed.**

3. Applicant shall relocate the proposed seepage away from the Property line and into the backyard, at least 15 feet from the neighbor to the north of the Property. *Comment addressed. The proposed seepage pit has been relocated in the southerly direction and is now located 15 feet from both the rear and northern side property boundaries.*
4. Applicant shall not connect the proposed pergola to the dwelling. *The revised site plan no longer indicates the installation of a pergola; however the architectural plans show the pergola. Based on architectural plans the pergola appears to be attached to the dwelling. Both plans should be reviewed for consistency. Comment remains outstanding.* **The engineering plans indicate the pergola atop the raised concrete patio. The architectural plans have been revised to include a note saying the pergola will be unattached to the dwelling. Comment addressed.**
5. Applicant shall not cover or otherwise enclose the proposed pergola. *The revised site plan no longer indicates the installation of a pergola; however, the architectural plans show the pergola. Based on architectural plans it's unclear if the pergola is covered or uncovered. Comment remains outstanding.* **The engineering plans indicate the pergola atop the raised concrete patio. The architectural plans have been revised to include a note saying the pergola will be uncovered. Comment addressed.**
6. The height of the pergola shall not exceed 12 feet front average grade. *Comment remains in effect.* **The architectural plans have been revised to include a note saying the pergola will be 11' 8" above average grade. Comment addressed**
7. Unless otherwise addressed herein or at the public hearing before the Board, the Applicant shall comply with the recommendations of the Board, including but not limited to the Board Planner Report and the Board Engineer Report, and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property. *Continuing comment.*
8. Notwithstanding the approval granted herein, the Applicant Shall comply with all of the ordinances of the Borough of Demarest and all applicable county, state, and federal statutes, ordinances, rules and regulations. The Property shall be kept neat during all construction. *The Applicant should comply.*
9. The Applicant shall obtain the approval (or waiver thereof) of any and all other Governmental agencies having jurisdiction over the proposed development. *The Applicant should comply.*
10. The Applicant shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary. *Continuing comment.*

11. The Applicant shall post all fees and deposits as required by applicable Ordinances of the Borough of Demarest which shall include payment to the Boroughs professionals for the review of the within Application and the inspection of work to be performed incidental thereto. *The Applicant should comply.*
12. The Applicant shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for it, affecting public safety or general welfare, if any such condition develops. *The Applicant should comply.*
13. The Applicant shall be and remain liable for any and all damages or money loss occasioned by the Borough of Demarest or its officer's or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or its agents arising front the making of improvements and shall save, indemnify, hold harmless the Borough of Demarest or Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising front such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof. *The Applicant should comply.*
14. The Applicant's failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause of the revocation of either a Building Permit and/or Certificate of Occupancy issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure. *Continuing comment.*

Based on our review of the above conditions outlined in the resolution of approval, we find that the Applicant **does not comply** with the conditions outlined in the resolution.

Site Plan

15. The Applicant is proposing one (1) precast concrete drywell to collect and store stormwater runoff from what appears to be the roof area of the proposed dwelling. We offer the following comments related to the drainage design:
 - a. The Applicant has provided design calculations which indicate approximately 1,890 SF of roof area being collected and conveyed to the proposed drywell. The Applicant has provided adequate storage for this drainage area. We take no exception to the calculations provided.
 - b. A soil test shall be provided prior to the installation of the proposed seepage pits. Soil test shall include information regarding the location of the seasonal high-water table (SHWT) and percolation rate of the soil.
 - c. The Applicant shall provide an at-grade 6-inch PVC observation port cap or manhole for future maintenance in the seepage pit detail.

- d. The Borough Engineer shall be notified to inspect the seepage pits prior to backfilling.
16. The Applicant has depicted existing and proposed contours on the property. We offer the following comments related to grading:
- a. Under existing conditions, the site drains generally from south to north. The highest point of the property is along the southern side property boundary where elevations are approximately 50.5 and the lowest point of the property is in the northeastern corner adjacent to the neighboring property, where elevations are approximately 46.
 - b. Under proposed conditions, the high and low points are generally maintained, and drainage patterns should not be substantially impacted. Grading changes appear to be minor in nature and do not exceed more than one (1) foot in most locations.
 - c. The site plans do not appear to show any proposed grading at the rear of the property. Testimony should be provided regarding any additional grade changes on the property.
17. The Applicant proposes to remove eleven (11) trees to construct the proposed improvements. The Applicant is proposing eleven (11) replacement trees. We defer to the Shade Tree Commission for final comment and approval of the proposed removal and replacement of trees.

Soil Moving Application

18. The Applicant has indicated a total 377 CY of soil movement is anticipated to complete the proposed improvements. The applicant should provide cut and fill calculations. The Applicant should be aware that any soil movement quantity in excess of 250 CY will require Mayor and Council approval pursuant to Chapter 147 of Borough Ordinance
19. The Applicant will require a soil moving permit in accordance with Chapter 147 (§147-1) of the Borough Ordinance as the posted values of soil movement are greater than 250 cubic yards. As a result, the following provisions apply:
- a. As per Borough Ordinance Section 147-7, the Applicant shall move the soil, in accordance with the soil permit, under the supervision of the Building Inspector and Borough Engineer and shall pay a reasonable fee for such services in the amount determined by the Mayor and Council.
 - b. As per Borough Ordinance Section 147-8, the owner of the premises or the person in charge of relocation of the soil, when permission has been duly granted, shall not take away the top layer of soil for a depth of eight inches, but such top layer of soil to a depth of eight inches shall be set aside for retention on the premises and shall be respread over the premises when the rest of the soil has been moved pursuant to levels of contour lines approved by the Mayor and Council of the Borough of Demarest.

- c. As per Borough Ordinance Section 147-9, no permission or soil permit shall be issued unless and until the Applicant therefore shall have filed with the Borough of Demarest a performance bond, in form, amount and surety acceptable to the Borough of Demarest, conditioned upon full and faithful performance of the soil's being moved in accordance with the provisions of the Borough's Soil Moving Ordinance and permission of the Mayor and Council granted pursuant hereto.
- d. **An engineer's cost estimate shall be submitted by the Applicant** to determine the performance guaranty to be submitted to the Borough. The cost estimate for bonding should include all costs associated with soil erosion and sediment control measures, seepage pit installation, drainage structures / piping, and soil moving (on-site and export).
The Applicant has provided a cost estimate in the amount of \$21,515.00. Bonding and escrow amounts are as follows:
 - i. **Performance Bond (120%): \$25,818.00**
 - ii. **Engineering Escrow (5%): \$1,075.75**

Miscellaneous

- 20. The Applicant is responsible for procuring all applicable federal, state, and county approvals necessary to complete the proposed improvements.
- 21. If drainage issues arise during or after construction, the Applicant will be responsible for remedying any drainage issues caused by the proposed construction and/or demolition activities. In addition, water runoff directed to neighboring properties is prohibited. If stormwater runoff does adversely impact neighboring properties, the Applicant will be responsible for remedying that situation at no additional cost to the Borough.
- 22. Sediment shall be removed from the upstream face of the silt fence when it has reached a depth of $\frac{1}{2}$ the silt fence height or when the silt fence is leaning or buckling from the collected sediment and debris. Silt fence shall be inspected daily for signs of deterioration and sediment removal. When damaged, the silt fence shall be repaired or replaced immediately. Soil erosion and sediment control measures, including silt fence, shall be installed prior to the start of construction.
- 23. The Applicant should place a silt fence downgrade on all areas where the existing ground disturbance will occur. In addition, the disturbed areas must be stabilized with seed and straw as soon as construction is completed. These recommendations/requirements are made to prevent sediment-laden water from entering municipal streets and neighboring properties.
- 24. The Applicant will inevitably mobilize construction equipment and/or will have deliveries of material from the Borough Right-of-Way, which could damage municipal infrastructure. Therefore, the Applicant will be responsible for any damages to the curb, drainage infrastructure, and/or pavement in the Borough's Right-of-Way.

25. A signed and sealed "As-Built" site plan should be submitted as a requirement for this office to "sign off" on the issuance of the Certificate of Occupancy (C.O.). The "As-Built" should accurately show site features, including grading, spot elevations, coverage quantities, etc.

Our office has reviewed the application, and based on the above, this office ***does recommend*** permits be issued at this time.

Should you have any questions, you may contact me at (201) 775-1283.

Sincerely,

Colliers Engineering & Design



Nick Chelius, P.E.
Borough Engineer

CC: Michael Greco, Zoning Officer (via e-mail)
Michael E. Dipple, Applicant's Engineer (mdipple@l2alanddesign.com)
Robert Zampolin, Applicant's Architect (bob@zampolin.com)
7 Christie LLC, Applicant (7christiellc@gmail.com)

Resolution of the Demarest Governing Body

Resolution No. 074-26

March 9, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski						
Carmeli						
Collins						
Fox						
Marks						
Reiss						

TITLE: PAYMENT OF BILLS

BE IT RESOLVED, by the Mayor and Council of the Borough of Demarest that the following bills in the sum of \$ 3,177,302.39 on bill list dated March 5, 2026 have been approved and authorized for payment and the that the Mayor, Borough Clerk and Borough Treasurer are hereby authorized to issue warrants in payment of same.

APPROVED:

Mayor Brian Bernstein

CERTIFICATION

I, Julie Falkenstern, Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on March 9, 2026

Julie Falkenstern, RMC
Borough Clerk

P.O. Type: All
Range: First
Format: Condensed
Vendors: All
Rcvd Batch Id Range: First to Last

Include Project Line Items: Yes
to Last
Received Date Range: 02/26/26 to 12/31/26
Include Non-Budgeted: Y

Open: N
Rcvd: Y
Bid: Y

Paid: Y
Held: N
State: Y

Void: N
Aprv: N
Other: Y
Exempt: Y

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
AAAEM005	AAA EMERGENCY SUPPLY CO INC								
		25-00827	06/09/25	Hose Replacement Order	Open	4,732.20	0.00		
		26-00263	02/27/26	EQUIPMENT REPAIR	Open	<u>133.50</u>	0.00		
						4,865.70			
AAAMU005	AAA MUNICIPAL & COUNTY ADVISOR								
		26-00315	03/05/26	PROFESSIONAL SERVICES	Open	375.00	0.00		
AMAZO005	AMAZON CAPITAL SERVICES								
		26-00246	02/25/26	borough coffee pods	Open	47.49	0.00		
		26-00273	03/02/26	pd supplies	Open	199.90	0.00		
		26-00282	03/02/26	pd supplies	Open	90.94	0.00		
		26-00300	03/05/26	dpw supplies	Open	<u>18.99</u>	0.00		
						357.32			
AQUAC010	AQUA COOLERS, LLC								
		26-00245	02/25/26	february invoice	Open	230.31	0.00		
ATLAN020	ATLANTIC SALT, INC.								
		26-00293	03/05/26	ROAD SALT	Open	2,151.92	0.00		
AUTOM010	AUTOMOTIVE BRAKE CO.								
		26-00277	03/02/26	A#38008/0 JAN/FEB INVOICES	Open	410.76	0.00		
BERGE025	BERGEN CNTY DEPT OF HEALTH								
		26-00275	03/02/26	EAP 1/1/26-6/30/26	Open	433.88	0.00		
BOROO010	BORO OF DEMAREST PAYROLL								
		26-00258	02/26/26	2/27/26 PAYROLL	Clsd	221,644.21	0.00		
BRIAN005	BRIAN TALTY								
		26-00248	02/25/26	ice pick/shovel reimbursement	Open	37.98	0.00		
CHASA005	CHASAN, LAMPARELLO, MALLON & C								
		26-00250	02/25/26	TAX APPEAL SERVICES JANUARY	Open	900.00	0.00		
COLLI010	COLLIERS ENGINEERING & DESIGN								
		26-00267	03/02/26	DEP0238 232 COUNTY RD TOWNHOME	Open	100.00	0.00		
		26-00268	03/02/26	DEP0251 77 PINE TERRACE	Open	650.00	0.00		
		26-00269	03/02/26	DEP0250 110 COUNTY RD (KNS)	Open	412.50	0.00		
		26-00270	03/02/26	DEP0227 44 PINE TERRACE	Open	425.00	0.00		
		26-00271	03/02/26	DEB005B 4TH ROUND HOUSING ELEM	Open	500.00	0.00		
		26-00272	03/02/26	DEB005A HEFSP VACANT LAND ASSE	Open	3,257.50	0.00		
		26-00297	03/05/26	DEP0164 95 COUNTY RD	Open	<u>50.00</u>	0.00		
						5,395.00			

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
CROSS010	CROSSING GUARD SERVICES LLC								
		26-00289	03/05/26	LUTHERLEE FEB 2026	Open	1,014.16	0.00		
		26-00290	03/05/26	NVRHS FEB 2026	Open	2,318.08	0.00		
		26-00291	03/05/26	BOROHALL FEB 2026	Open	<u>11,264.42</u>	0.00		
						14,596.66			
DAVID045	DAVID WEBER OIL CO.								
		26-00194	02/12/26	OIL/FUILDS	Open	2,166.59	0.00		
DELSPO05	DEL'S PEST ARREST INC								
		26-00295	03/05/26	FEBRUARY SERVICE	Open	300.00	0.00		
DEMAR015	DEMAREST BOARD OF EDUCATION								
		26-00312	03/05/26	mar tax levy	Open	1,521,708.00	0.00		
EBEMP005	EB EMPLOYEE SOLUTIONS, LLC								
		26-00286	02/27/26	DIFFERENCE CARD FEB FEE	Open	2,081.30	0.00		
		26-00287	02/27/26	FEB DIFF CARD EMPLOYEE BILLING	Open	<u>10,655.18</u>	0.00		
						12,736.48			
ESSIN005	ESS, INC / PINNACLE WIRELESS								
		26-00283	03/03/26	Radio Repair Car 1	Open	330.00	0.00		
FILEB005	FILEBANK, INC								
		26-00247	02/25/26	march storage	Open	1,245.34	0.00		
FIREA005	FIRE AND SAFETY SVCS LTD								
		26-00264	02/27/26	HANDRAIL STANCHION	Open	50.46	0.00		
GANNE005	GANNETT MEDIA CORP								
		26-00298	03/05/26	february postings	Open	281.40	0.00		
IMCLE005	I-M CLEANING, INC								
		26-00265	02/27/26	FEB 2026 CLEANING SERVICE	Open	2,600.00	0.00		
IDMME005	I.D.M. MEDICAL GAS CO.								
		26-00278	03/02/26	EMS Oxygen	Open	163.35	0.00		
IMPAC005	IMPAC FLEET								
		26-00304	03/05/26	A#251082 FEB 2026 FUEL	Open	5,193.86	0.00		
INSTI010	INSTITUTE FOR FORENSIC								
		26-00254	02/25/26	MICAH B FITNESS FOR DUTY	Open	3,000.00	0.00		
INTER035	INTER CITY TIRE								
		26-00299	03/05/26	tires	Open	1,094.57	0.00		
JESCO005	JESCO INC								
		26-00008	01/30/26	backhoe bucket	Open	5,500.00	0.00		
LOUIS005	LOUIS TOMASI								
		26-00288	03/03/26	APR REIMBURSEMENT	Open	3,415.53	0.00		

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
LUKEC005	LUKE CATALDO	26-00253	02/25/26	BOOTS -DAMAGED DURING MED CALL	Open	146.99	0.00		
NFPA0005	NFPA	26-00249	02/25/26	Annual NFPA Membership	Open	225.00	0.00		
NJDEP005	NJ DEPT OF HEALTH	26-00301	03/05/26	february dog license	Open	145.20	0.00		
NJEZP005	NJ E-Z PASS	26-00302	03/05/26	TOLL AND FEE PD	Open	52.40	0.00		
NJSAC005	NJSACOP	26-00255	02/25/26	PD ORIENTATION	Open	1,200.00	0.00		
		26-00256	02/25/26	PD ACADEMY	Open	<u>975.00</u>	0.00		
						2,175.00			
NORTH070	NORTHERN VALLEY ELEC CO INC	26-00303	03/05/26	repair broken flood lights	Open	715.00	0.00		
NVRHS005	NVRHS BOARD OF EDUCATION	26-00313	03/05/26	mar tax levy	Open	1,248,247.75	0.00		
ONECA005	ONE CALL CONCEPTS	26-00285	03/03/26	FEBRUARY SERVICE	Open	89.30	0.00		
OPTIM005	OPTIMUM	26-00281	03/02/26	A#07802088748013 AMB2/1-2/28	Open	3.13	0.00		
PUBLI005	PUBLIC SERVICE GAS & ELECTRIC	26-00307	03/05/26	A#7764465909 Church1/16-2/17	Open	827.18	0.00		
		26-00308	03/05/26	A#6669427409 Fire 1/16-2/17	Open	2,017.13	0.00		
		26-00309	03/05/26	A#6532685801 AMB 1/16-2/17	Open	580.52	0.00		
		26-00310	03/05/26	A#6739541701 DPW 1/16-2/17	Open	4,636.77	0.00		
		26-00311	03/05/26	A#6739541701 BORO 1/16-2/17	Open	<u>1,290.68</u>	0.00		
						9,352.28			
QUADI010	QUADIENT FINANCE USA, INC.	26-00274	03/02/26	postage funding	Open	1,300.00	0.00		
RAIN005	RAIN FLOW SPRINKER SYSTEMS INC	26-00280	03/02/26	Annual Contract 2026 Silver	Open	275.00	0.00		
ROBER035	ROBERT W WOGISCH	25-01894	11/21/25	waklee field drainage impvts	Clsd	94,476.45	0.00		B
SUPER015	SUPER QUALITY OIL CO. INC	26-00292	03/05/26	off road diesel	Open	1,514.54	0.00		
SUPER010	SUPERIOR DISTRIBUTORS	26-00276	03/02/26	dpw tire chains	Open	1,090.98	0.00		

Vendor #	Name	PO #	PO Date	Description	Status	Amount	Void Amount	Contract	PO Type
TMOBI005	T-MOBILE	26-00305	03/05/26	A#990625644 1/21/26-2/20/26	Open	297.19	0.00		
TCTA0005	T.C.T.A OF BERGEN COUNTY	26-00259	02/27/26	1st Annual Mtg March 11th 2026	Open	55.00	0.00		
TCTA0010	T.C.T.A. OF NJ	26-00260	02/27/26	Webinar 04/15/26 PILOT Implem	Open	50.00	0.00		
THEST005	THE STANDARD INSURANCE CO	26-00261	02/27/26	P#001481980001 Mar2026 25Lives	Open	383.29	0.00		
VERAL005	V.E. RALPH & SON, INC	26-00279	03/02/26	ambulance supplies	Open	1,379.17	0.00		
VANDI005	VAN DINE MOTORS	26-00294	03/05/26	CYLINDER/PINS	Open	997.73	0.00		
VERIZ010	VERIZON WIRELESS	26-00306	03/05/26	98249867300001 1/11-2/10	Open	420.17	0.00		
WEINE005	WEINER LAW GROUP	26-00251	02/25/26	PROF SVCS 232 COUNTY LLC	Open	117.00	0.00		
		26-00252	02/25/26	SPECIAL COUNSEL AH JANUARY	Open	2,359.50	0.00		
						<u>2,476.50</u>			
WHALE005	WHALEN & IVES	26-00296	03/05/26	BOILER EVALUATION	Open	250.00	0.00		
Total Purchase Orders:		70	Total P.O. Line Items:		0	Total List Amount:	3,177,302.39	Total Void Amount:	0.00

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
	S-01	5,107.20	0.00	0.00	5,107.20
	6-01	290,008.78	0.00	2,769,955.75	3,059,964.53
	A-12	6,117.00	0.00	0.00	6,117.00
	C-04	99,976.45	0.00	0.00	99,976.45
	D-05	145.20	0.00	0.00	145.20
	M-06	4,237.51	0.00	0.00	4,237.51
	T-13	1,754.50	0.00	0.00	1,754.50
Total of All Funds:		<u>407,346.64</u>	<u>0.00</u>	<u>2,769,955.75</u>	<u>3,177,302.39</u>