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December 13, 2021

Honorable Jason Jones, Mayor  
Mount Holly Township  
City Hall Building  
23 Washington Street  
Mount Holly, New Jersey 08060

**Re: In the Matter of the Application of Mount Holly Township,  
Docket No. BUR-L-1623-15**

Dear Mayor Jones:

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

This Agreement shall supersede and replace in its entirety the February 11, 2019 settlement agreement between the Township of Mount Holly and Fair Share Housing Center (fully executed by the parties on February 25, 2019), attached hereto as **Exhibit A**, which was previously approved by the court following a fairness hearing.

### **Background**

Mount Holly filed the above-captioned matter on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with Mount Laurel IV.

Through the declaratory judgment process, the Township and FSHC agreed, in February 2019, to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

That settlement was approved by the trial court following a fairness hearing on May 23, 2019, and a final judgment of compliance was entered on June 26, 2020.

Since then, it has come to the attention of the Township and Fair Share Housing Center that the properties that were initially overlay zoned as part of the February 2019 settlement are no longer likely to produce a realistic opportunity for affordable housing, and the parties have negotiated this amended agreement to ensure that Mount Holly is creating new opportunities for affordable and inclusionary development.

### **Settlement Agreement Terms**

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of an amended Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan" or "HEFSP") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and Mount Holly hereby agree that the Township's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report)	13
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	0
Third Round (1999-2025) Prospective Need	0

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. To satisfy its Rehabilitation Share, the Township shall continue to implement and administer a municipal rehabilitation program for both owner-occupied and rental units in accordance with N.J.A.C. 5:93-5.2 and applicable law, and it shall also participate in the county rehabilitation program. Per Court Order dated June 26, 2020, the Court granted the Township credit for thirteen (13) rehabilitated units<sup>1</sup>. The Township identified the major systems that were repaired or replaced and noted the amount expended on each unit, which averages approximately \$17,000. Community Grants, Planning & Housing ("CGP&H") confirmed that the affordability controls on these units will remain in effect until transfer of the title or sale of the home through the program mortgage, at which time the full amount without interest is due back to the Township's rehabilitation program, helping to continue such program for other eligible properties.
6. The Township shall rescind the overlay zoning adopted via Ordinance No. 2019-11 on Blocks 97-101 that was part of the February 2019 settlement agreement between FSHC and Mount Holly and the Township's 2019 Third Housing Element and Fair Share Plan.
7. In order to compensate for this lost affordable housing opportunity, and as an essential component of this Agreement, Mount Holly agrees to implement the following mechanisms to capture affordable housing opportunities as they arise:

<sup>1</sup> The thirteen (13) rehabilitated units are: 18 Murrell Street, 517 Stevens Drive, 48 White Street, 46 C Buttonwood Street, 153 Washington Street, 17 Budd Street, 149 Washington Street, 142 Ashurst Lane, 45 Brainerd Street, 46 Parliament Drive, 222 Garden Street, 2 Manor Terrace, and 147 Cherry Street.

a. **Mandatory Set-Aside Ordinance.**

- i. The Township agrees to adopt the mandatory set-aside ordinance attached hereto as **Exhibit B**, which requires a twenty percent (20%) affordable housing set-aside where the affordable units are provided for for-sale and fifteen percent (15%) where the affordable units are provided for rental whenever any residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units at six (6) units per acre or higher, or equivalent, which results, in whole or in part, from: (i) a municipal rezoning or zoning amendment; (ii) any variance pursuant to N.J.S.A. 40:55D-70(d), including but not limited to any use variance or a density variance increasing the permissible density; and (iii) the adoption of a new or amended redevelopment plan or rehabilitation plan.

b. **Overlay Zoning.**

- i. The Township agrees to adopt an overlay zoning ordinance to permit multifamily apartments and townhomes up to four-stories at 20 units per acre with a 20% affordable housing set-aside on the following sites:
1. Block 66.02, Lots 1, 1.01, 2, 6, 6.05 (+/-4.5 acres).
  2. Block 84, Lots 33, 34.01, 34.02, 34.04, 35-40, 40.01, 52, 65, 65.01 (+/-4.5 acres).
  3. Block 112, Lots 14-21, 15.01, 16.01, 22.01, 22 (+/- 6 acres).
  4. Block 125, Lots 9, 9.01 (+/- 4 acres).
- ii. The overlay zoning shall remain in place for a period of at least 20 years.
8. The Township shall through the adoption of the overlay zoning and mandatory set-aside ordinance required by this Agreement require the following standards to be satisfied:
- a. At least fifty percent (50%) of the units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
  - b. At least twenty-five percent (25%) of the units shall be met through rental units, including at least half in rental units available to families.
  - c. At least require thirteen percent (13%) of all units referenced in this Agreement shall be very low income units at 30% or less of median income, with at least half of the very low income units being available to families
  - d. The affordable units in the overlay zoning shall be available to families.
9. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), FSHC, 510 Park Blvd, Cherry Hill, NJ; the Latino Action Network, PO Box 943, Freehold, NJ 07728; Willingboro

NAACP, Ms. Kyra Price, PO Box 207, Roebling 09854, Southern Burlington County NAACP, PO Box 3211, Cinnaminson, NJ 08077; the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016; and the New Jersey Housing Resource Center ("HRC"), and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph including posting all affordable housing units to the HRC website.

10. Mount Holly agrees to ensure that the following terms are complied with in all development that produces affordable housing:
- a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units (fractional units shall be rounded up) within each bedroom distribution shall be required to be for very-low-income households earning thirty percent (30%) or less of the median income.
  - b. All of the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act.
  - c. The Township shall maintain the affordability controls unless and until the Township, in its sole discretion, takes action to extend or release the affordable unit from such controls in accordance with UHAC and applicable law. If, after at least thirty (30) years, the Township acts to release an affordable unit from such controls, the Township shall ensure that the affordability controls shall remain in effect until the date on which a rental unit shall become vacant due to the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b).
  - d. In any inclusionary development, the affordable units shall be integrated to the extent possible with the market-rate units. Where the affordable and market-rate units are of the same tenure, there shall be a strong presumption that it is possible for the affordable and market-rate units to be fully integrated. In buildings with multiple dwelling units, the affordable units shall be generally distributed within each building with market units and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. The residents of the affordable units shall have full and equal access to all of the entryways, amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
  - e. In any inclusionary development, construction of the affordable units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
  - f. All of the affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified in this Agreement, and it shall also include posting

of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

11. The Township as part of its amended HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:
- a. Regional income limits shall be established for the region that the Township is located within (i.e., Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
  - b. The income limits attached hereto as **Exhibit C** are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2021, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
  - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.

12. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
13. As an essential term of this Agreement, within ninety (90) days of Court's approval of this Agreement, the Township shall adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt an amended Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement. The expenditures of funds contemplated under the Spending Plan will constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563).
14. Starting on December 13, 2022, and every anniversary thereafter, the Township of Mount Holly shall provide an annual report on all affordable housing activity and any expenditures from or deposits into its affordable housing trust fund. The annual report shall be sent directly to FSHC and the Special Master, posted on the municipal website, and provided to the New Jersey Department of Community Affairs or other entity designated by the State of New Jersey. The reporting shall state the location and the number of affordable units approved, under construction, and built, and it shall provide information on the bedroom and income distribution of the affordable units and whether a deed restriction has been imposed on them. It shall also report on affordable housing trust fund activity, including the amount and purpose of all expenditures, the source and amount of all deposits, and updated totals.
15. In view of the time and resources required to be expended by FSHC to negotiate and defend this Agreement, the Township of Mount Holly agrees to pay FSHC's fees and costs in the amount of \$8,000.00 within thirty (30) days of execution of this Agreement.
16. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
17. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
18. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court,

Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.

19. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Burlington County.
20. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
21. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
22. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
23. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
24. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
25. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
26. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
27. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
28. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

- 29. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
- 30. The effective date of this Agreement shall be the date upon which Fair Share Housing Center and Mount Holly have executed and delivered this Agreement.
- 31. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

**TO FSHC:** Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Telecopier: 856-663-8182  
adamgordon@fairsharehousing.org

**TO THE TOWNSHIP:** Robert Swartz, Esq.  
Steinhardt Cappelli Tipton & Taylor LLC  
1010 Kings Hwy South – Bldg 2  
Cherry Hill, NJ 08034  
Telecopier: 856-853-5530

**WITH A COPY TO THE MUNICIPAL CLERK:**  
Clerk, Mount Holly Township  
City Hall Building  
23 Washington Street  
Mount Holly, NJ 08060  
Telecopier: 609-267-8155

**IN WITNESS WHEREOF**, the Parties hereto have caused this agreement to be properly executed, their corporate seals affixed and attested and this agreement to be effective as of the Effective Date.

Sincerely,



Adam M. Gordon, Esq.  
Executive Director of Fair Share Housing Center

Witness: Bassam Gergi

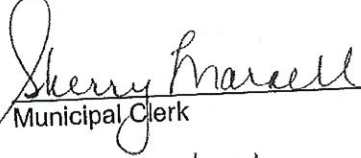
Dated: November 28, 2021

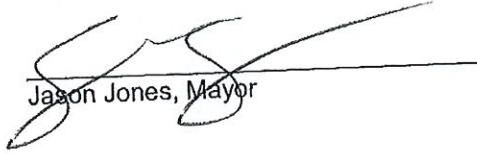
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Page 9

**On behalf of the Township of Mount Holly, with the authorization of the governing body:**

Witness/ Attest:

TOWNSHIP OF MOUNT Holly

  
Municipal Clerk

  
Jason Jones, Mayor

Dated: 12/13/21

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**Exhibit A:**  
**February 11, 2019 Settlement Agreement Between**  
**The Township of Mount Holly and Fair Share Housing Center**



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

February 11, 2019

Honorable Jason Jones,  
Mayor  
Mount Holly Township  
City Hall Building  
23 Washington Street  
Mount Holly, NJ 08060

Re: In the Matter of Mount Holly Township Docket No. BUR-L-1623-15

Dear Mayor Jones:

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

#### Background

Mount Holly filed the above-captioned matter on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

#### Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and Mount Holly hereby agree that the Township's affordable housing obligations are as follows:

{00692280.DOCX v.1}

510 Park Blvd. • Cherry Hill, New Jersey 08002 • 856-665-5444 • fax: 856-663-8182 • www.fairsharehousing.org

Rehabilitation Share (per Kinsey Report)	13
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	0
Third Round (1999-2025) Prospective Need	0

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. During the compliance phase of this matter, the municipality will demonstrate how it will address its Third Round rehabilitation obligation of 13 units in accordance with applicable law, for both owner-occupied and rented units, through participation in a county rehabilitation program or the administration by the Township of a rehabilitation program
6. As noted above, the Township has a Prior Round prospective need of zero (0) units and a Third Round prospective need of zero (0) units. The municipality therefore does not have to take any steps to satisfy prospective need obligations.
7. As part of an effort to provide affordable housing opportunities, and as an essential component of this Agreement, the municipality agrees to provide overlay zoning on Blocks 97-101, on lots designated in the map attached to this Agreement as Exh. A-1 and further described on Exh A-2 (Collectively Exh A), on the following terms:
  - a. 40% of the acreage on the lots identified in Exh. A shall be designated for apartments between 15 and 18 dwelling units per acre, with a 20% set-aside of affordable housing for rental and sales units. The overlay zoning for this site shall provide an option for senior housing to be developed in the area zoned for apartments, provided that the number of senior units permitted in the area zoned for apartments shall not exceed 25% of the total number of permitted apartments and 25% of the affordable units
  - b. 40% of the acreage to be designated for high density towns and other multi-family, for sale, dwelling units with a density of between 9 and 12 dwelling units per acre, with a 20% set-aside of affordable housing for rental and sales units.
  - c. 20% single family attached or detached with a density between 5 and 8 units per acre, with no requirement of a set-aside of affordable housing.
  - d. The overlay zoning shall remain in place for a period of at least 20 years.
8. Except for the 13 unit Third Round rehabilitation obligation, the Township agrees to require 13% of all units referenced in this Agreement to be very low income units, with half of the very low income units being available to families.
9. The Township shall through the adoption of the overlay zoning required by this Agreement require the following standards to be satisfied:
  - a. At least 50 percent of the units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
  - b. At least twenty-five percent of the units shall be met through rental units, including at least half in rental units available to families.

- c. With the exception of the senior units that will be permitted as an option, the affordable units shall be available to families.
10. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), FSHC, 510 Park Blvd, Cherry Hill, NJ; the Latino Action Network, PO Box 943, Freehold, NJ 07728; Willingboro NAACP, Ms. Kyra Price, PO Box 207, Roebing 09854, Southern Burlington County NAACP, PO Box 3211, Cinnaminson, NJ 08077; the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016; and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
11. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:
- a. Regional income limits shall be established for the region that the Township is located within (i.e. Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
  - b. The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2018, and shall be utilized until the Township updates the income

February 11, 2019  
Page 4

- limits after HUD has published revised determinations of median income for the next fiscal year.
- c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
  - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
12. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
  13. As an essential term of this Agreement, within 120 days of Court's approval of this Agreement, the Township shall introduce an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
  14. The Township shall prepare a Spending Plan within the 120-day period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Township, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
  15. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
  16. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of

Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.

17. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the Law Division unless and until an appeal of the Law Division's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the Law Division's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
18. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Burlington County.
19. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
20. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
21. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
22. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
23. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
24. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
25. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or

February 11, 2019  
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- in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
26. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
27. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
28. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
29. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

**TO FSHC:**

Kevin D. Walsh, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Telecopier: 856-663-8182

**TO THE TOWNSHIP:**

Stephen J. Boraske, Esq.  
Florio Perrucci Steinhardt & Cappelli LLC  
1010 Kings Hwy South - Bldg 2  
Cherry Hill, NJ 08034  
Telecopier: 856-354-8318

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

Clerk  
Mount Holly Township  
City Hall Building  
23 Washington Street  
Mount Holly, NJ 08060  
Telecopier: 609-267-8155

Please sign below if these terms are acceptable.

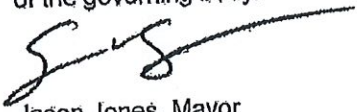
Sincerely,



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

February 11, 2019  
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On behalf of the Township of Mount Holly, with the authorization  
of the governing body:

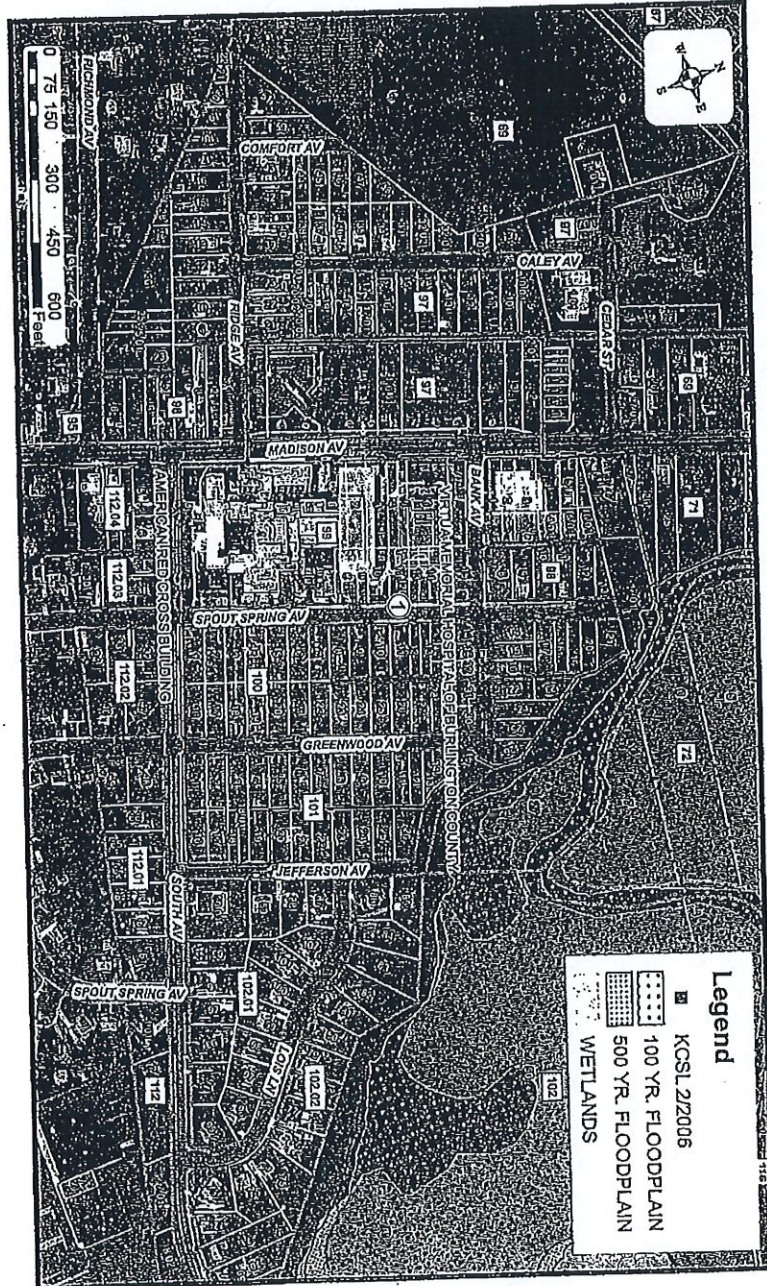


Jason Jones, Mayor

Dated: 02-25-2019

Exhibit A

Proposed OB Overlay Inclusionary Zones  
Addressing Unmet Need  
Mount Holly Township,  
Burlington County, New Jersey



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EXHIBIT A-2

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Block	Lot	Qual	Property Location	Property C	Owner's Name	Updated	Zone	Additional Lots	Land Desc	Building Desc	Est Acres
97	2		124 MADISON AVE	15D	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		3,45.5	400X225		2.0661
97	7		150 MADISON AVE	4A	VIRTUA MEMORIAL % JULIE HERB	12/12/2016 08		18	317X225	SURGICAL CENTER	1.6973
98	1		131 MADISON AVE	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08		128.3	300X200	2 1/2FD	0.1377
98	4		129 MADISON AVE	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			62.72X126.50	1 1/2SD	0.1821
98	4.01		MADISON AVE REAR	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08		16	500X90	1MD	0.0918
98	5		MADISON AVE	4A	GROSSMAN, NEIL S	4/9/2018 08		16.01	51X120		0.1561
96	5.01		MADISON AVE REAR	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			85X90AVG	1FD	0.4591
98	7		103 MADISON AVE	4A	VIRTUA MEMORIAL % JULIE HERB	6/19/2017 08			100X270 AVG		0.6198
98	7.01		103 MADISON AVE REAR	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X12	PARKING LOT	0.0137
98	8		128 SPOUT SPRING AVE	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125	2 1/2FD	0.1434
98	9		126 SPOUT SPRING AVE	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08		1128.13	50X125	1FD GR	0.4132
98	10		122 SPOUT SPRING AVE	2	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			100X50		0.1147
98	11		129 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			35X100		0.0918
98	14		100 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.0803
98	15		102 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.0860
98	16		125 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08		1208.21	125X125AVG		0.3587
98	17		123 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X100		0.1147
98	18		121 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X100		0.1147
98	19		104 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			44X163		0.1646
98	22		106 BANK AVE REAR	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X131		0.1503
98	23		106 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			66X94AVG	48 HOSP	3.0946
98	24		110 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			400X327 IRRIG	EBENEZER'S CAFE	0.0273
98	25		175 MADISON AVE	15D	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		13 THRU 14	300X327	HOSP PARKING	2.3209
99	1	CAFE	149 MADISON AVE	4A	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
99	2		138 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.8035
99	5		SOUTH AVE	1	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		12,3,4,5,6&7	50X700		1.0043
99	16		157 SPOUT SPRING AVE	15D	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	1		155 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	8		153 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125	2FDGR	0.1434
100	9		151 SPOUT SPRING AVE	2	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	10		147 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			25X125		0.0717
100	11		145 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X100		0.0717
100	12		143 SPOUT SPRING AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			40X100		0.0918
100	13		99 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			350X125	PARKING AREA	1.0063
100	14		101 BANK AVE	15D	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		17,18,19,20,21&22	50X125		1.1434
100	15		160 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	16		152 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	23		148 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	24		146 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125		0.1434
100	25		144 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			50X125	1SD GR	0.1434
100	26		144 GREENWOOD AVE	2	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			25X125		0.0717
100	27		142 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			25X125		0.0717
100	28		140 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			62X50		0.0723
100	29		107 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			35X100	25FD	0.0711
100	30		105 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			550X131		0.0803
100	31		103 BANK AVE	1	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		2 THRU 11	24X125		1.6540
100	32		163 GREENWOOD AVE	15D	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			26X125		0.0688
101	1		143 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			100X97		0.0746
101	12		141 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	8/15/2016 08			125X125		0.2726
101	13		139 GREENWOOD AVE	1	VIRTUA MEMORIAL % JULIE HERB	12/18/2017 08		17&18			0.3587
101	14		203 SOUTH AVE	15D	VIRTUA MEMORIAL % JULIE HERB						20.5503

**EXHIBIT B: 2018 INCOME LIMITS**

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 2018  
**2018 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE**  
Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on

Region	Income Level	Household Size								Max Increase Percent <sup>1</sup> Single <sup>2</sup>	Regional Asset Limit <sup>3</sup>			
		1 Person	1.5 Person	2 Person	3 Person	4 Person	4.5 Person	5 Person	6 Person			7 Person	8+ Person	
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$63,597	\$69,140	\$72,682	\$81,767	\$90,853	\$94,487	\$98,121	\$105,388	\$112,657	\$119,926			
	Moderate	\$50,878	\$54,512	\$58,146	\$65,414	\$72,682	\$75,589	\$78,497	\$84,511	\$89,540	\$94,569	2.2%	\$175,679	
	Low	\$34,798	\$34,070	\$36,341	\$40,384	\$45,426	\$47,243	\$49,060	\$52,695	\$56,329	\$59,963			
Region 2 Essex, Morris, Union and Warren	Median	\$66,755	\$71,123	\$71,805	\$76,291	\$85,828	\$85,264	\$89,179	\$102,593	\$110,622	\$118,252	2.3%	\$182,955	
	Moderate	\$53,404	\$57,215	\$57,103	\$60,862	\$68,662	\$67,281	\$70,243	\$82,395	\$88,498	\$94,601	2.3%	\$100,705	
	Low	\$33,277	\$35,762	\$38,246	\$42,914	\$47,682	\$49,589	\$51,497	\$55,311	\$59,125	\$62,940			
Region 3 Hunterdon, Middlesex and Somerset	Median	\$70,025	\$74,457	\$72,887	\$79,748	\$88,609	\$89,754	\$90,898	\$93,187	\$105,164	\$113,942	2.2%	\$205,458	
	Moderate	\$60,424	\$64,740	\$63,056	\$67,688	\$77,688	\$77,320	\$78,108	\$82,266	\$92,582	\$96,898	2.37%	\$71,214	
	Low	\$37,765	\$40,463	\$43,160	\$48,555	\$53,950	\$55,950	\$57,950	\$62,582	\$67,214	\$71,846			
Region 4 Mercer, Monmouth and Ocean	Median	\$69,447	\$74,407	\$79,368	\$89,289	\$99,209	\$103,178	\$107,146	\$115,083	\$123,020	\$130,956	2.3%	\$186,615	
	Moderate	\$55,557	\$59,526	\$63,494	\$71,431	\$79,368	\$82,542	\$85,717	\$92,066	\$98,415	\$104,765	5.15%	\$65,478	
	Low	\$34,723	\$37,204	\$39,684	\$44,644	\$49,605	\$51,589	\$53,573	\$57,541	\$61,510	\$65,478			
Region 5 Burlington, Camden and Gloucester	Median	\$61,180	\$65,250	\$69,320	\$78,660	\$87,400	\$90,896	\$94,392	\$101,384	\$108,376	\$115,368	2.2%	\$161,977	
	Moderate	\$48,944	\$52,440	\$55,936	\$62,928	\$69,920	\$72,717	\$75,514	\$81,107	\$86,701	\$92,294	5.05%	\$67,684	
	Low	\$30,590	\$32,775	\$34,960	\$39,330	\$43,700	\$45,448	\$47,196	\$50,692	\$54,188	\$57,684			
Region 6 Atlantic Cape May, Cumberland and Salem	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,979	\$78,979	\$84,655	\$90,331	\$96,007	2.2%	\$136,680	
	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,748	\$63,113	\$67,724	\$72,335	\$76,946	0.00%	\$67,066	
	Low	\$25,543	\$27,327	\$29,112	\$32,840	\$36,568	\$37,948	\$39,328	\$42,228	\$45,128	\$48,028			

1. These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(d).  
 2. This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 is 2.2%. (Consumer Price Index for All Urban Consumers (CPI-U)). Regions by expenditure category and commodity and service group. Landlords who did not increase rents in 2015, 2016, or 2017 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.  
 3. This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.  
 4. Low income tax credit developments may increase, based on the low income tax credit regulations.  
 5. The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b).  
 Note: Since the Regional Income Limits for Region 6 in 2017 were higher than the 2018 calculations, the 2017 Income Limits will remain in force for 2018 (as previously required by N.J.A.C. 5:97-9.2(c)).

December 13, 2021  
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**Exhibit B:**  
**Mandatory Set-Aside Ordinance**

\_\_\_\_\_, New Jersey

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE \_\_\_\_\_ OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_ AND STATE OF NEW JERSEY ADDING \_\_\_\_\_ "MANDATORY AFFORDABLE HOUSING SET-ASIDE" TO THE CODE OF THE \_\_\_\_\_ OF \_\_\_\_\_

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ County, New Jersey, that the Land Development Regulations set forth in \_\_\_\_\_ of the Code of the \_\_\_\_\_ of \_\_\_\_\_ (the "Code") are hereby amended and supplemented in order to establish a new Section \_\_\_\_\_ thereof, to be entitled "Mandatory Affordable Housing Set-Aside" as set forth below:

**Section I. Mandatory Affordable Housing Set-Aside.**

a. **Background.** The State of New Jersey has a longstanding and well-established commitment to maximizing the opportunities for the development of housing affordable for very-low-, low-, and moderate-income households.

The provision of "safe, decent and attractive housing that [lower-income households] can afford serves the community's interest in achieving an integrated, just and free society and promotes the general welfare of all citizens." De Simone v. Greater Englewood Hous. Corp., 56 N.J. 428, 441 (1970).

Notably, in the Mount Laurel decisions, the New Jersey Supreme Court held that the State's Constitution makes it "plain beyond dispute that proper provision for adequate housing of all categories of people is certainly an absolute essential in promotion of the general welfare required in all local land use regulation." S. Burlington Cty. NAACP v. Mount Laurel, 67 N.J. 151, 179 (1975) (Mount Laurel I).

The Court thus found that "each . . . municipality [must] affirmatively . . . plan and provide, by its land use regulations, the reasonable opportunity for an appropriate variety and choice of housing, including, of course, low and moderate cost housing, to meet the needs, desires and resources of all categories of people who may desire to live within its boundaries." Ibid.

The New Jersey Legislature itself affirmed this commitment when it enacted the Fair Housing Act of 1985, which established that it is in the State's interest "to maximize the number of low and moderate units by creating new affordable housing and by rehabilitating existing, but substandard, housing in the State." N.J.S.A. 52:27D-302.

Accordingly, the New Jersey Supreme Court has determined that "[a]ffordable housing is a goal that is no longer merely implicit in the notion of the general welfare. It has been expressly recognized as a governmental end and codified under the FHA." Holmdel Builders Ass'n v. Holmdel, 121 N.J. 550, 567 (1990).

Since then, New Jersey's courts have consistently recognized that "[t]he public policy of this State has long been that persons with low and moderate incomes are entitled to affordable housing," because "[t]here cannot be the slightest doubt that shelter, along with food, are the most basic human needs." Homes of Hope, Inc. v. Eastampton Tp. Land Use Planning Bd., 409 N.J. Super. 330, 337 (App. Div. 2009) (quoting Mount Laurel I, 67 N.J. at 178).

b. **Affordable Housing Set-Aside.** A mandatory affordable housing set-aside requirement shall apply beginning with the effective date of this Ordinance to any residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units at six (6) units per acre or higher, or equivalent, which results, in whole or in part, from: (i) a municipal rezoning or zoning amendment; (ii) any variance pursuant to N.J.S.A. 40:55D-70(d), including but not limited to any use variance or a density variance increasing the permissible density; and (iii) the adoption of a new or amended redevelopment plan or rehabilitation plan. The set-aside shall be twenty percent (20%) where the affordable units are provided for for-sale and fifteen percent (15%) where the affordable units are provided for rental.

c. **Exemptions.** Development under an adopted redevelopment plan in effect as of the effective date of this Ordinance is exempt, unless said plan is amended subsequently to increase the density.

d. **Additional Incentives for Affordable Housing.** A developer subject to the mandatory affordable housing set-aside may request, and the appropriate approving authority may, at its discretion, grant additional incentives for affordable housing, including but not limited to a density bonus, a reduction in the off-street parking spaces otherwise required, and/or a reduction in the minimum setback requirements.

e. **Other Terms Applicable.** The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside:

1. All subdivision and site plan approvals of qualifying developments shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
2. No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not,

for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold. The approving authority may impose any reasonable conditions to ensure such compliance.

3. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. The developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c).
4. All affordable units created shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units shall be required to be restricted for very-low-income households earning thirty percent (30%) or less of the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA").
5. At least fifty percent (50%) of the affordable units within each bedroom distribution shall be affordable to low-income households, inclusive of the at least thirteen percent (13%) of units affordable to very-low-income households.
6. The very-low-income affordable units shall be proportionately distributed within each bedroom distribution. In a family non-age-restricted development, at no time shall the number of one-bedroom very-low-income units exceed the number of three-bedroom very-low-income units.
7. Affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market-rate units. The affordable units shall also be of the same type as the market-rate units (e.g., if the market-rate units are non-age-restricted family units, the affordable units shall be non-age-restricted family units as well). The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
8. Affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as otherwise provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years.

9. Construction of the affordable and market units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
  10. Affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.
  11. The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.
  12. No developer may make a payment in lieu of constructing affordable units on site, except for fractional units as noted in Paragraph 3, above.
  13. Nothing in this Ordinance precludes the municipality from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this Ordinance.
  14. This Ordinance shall not impose an obligation on non-residential development, including the non-residential portion of a mixed-use development, subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:45(D)-8.1, et seq. Nevertheless, all residential development, including the residential portion of a mixed-use development, must comply with the affordable housing set-aside.
  15. This Ordinance does not apply to any specific sites or specific zones that were rezoned as part of the Township's approved Housing Element and Fair Share Plan, for which density and affordable housing set-aside requirements shall be governed by the specific standards approved.
- f. **Severability.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.
- g. **Inconsistencies.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.
- h. **Referral to Planning Board.** A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

i. **Effective Date and Scope.** This Ordinance shall take effect upon its passage and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

INTRODUCED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

December 13, 2021  
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**Exhibit C:**  
**2021 Regional Income Limits**

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 27, 2021  
**2021 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE**

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents** Sales***	Regional Asset Limit****
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$72,846	\$78,050	\$83,253	\$93,659	\$104,066	\$108,229	\$112,391	\$120,717	\$129,042	\$137,367		
	Moderate	\$58,277	\$62,440	\$66,602	\$74,928	\$83,253	\$86,583	\$89,913	\$96,573	\$103,233	\$109,894	1.6%	8.46%
	Low	\$36,423	\$39,025	\$41,626	\$46,830	\$52,033	\$54,114	\$56,196	\$60,358	\$64,521	\$68,684		\$201,229
	Very Low	\$21,854	\$23,415	\$24,976	\$28,098	\$31,220	\$32,469	\$33,717	\$36,215	\$38,713	\$41,210		
Region 2 Essex, Morris, Union and Warren	Median	\$75,331	\$80,711	\$86,092	\$96,854	\$107,615	\$111,920	\$116,224	\$124,834	\$133,443	\$142,052		
	Moderate	\$60,265	\$64,569	\$68,874	\$77,483	\$86,092	\$89,536	\$92,980	\$99,867	\$106,754	\$113,642	1.6%	2.00%
	Low	\$37,665	\$40,356	\$43,046	\$48,427	\$53,808	\$55,960	\$58,112	\$62,417	\$66,721	\$71,026		\$206,459
	Very Low	\$22,599	\$24,213	\$25,828	\$29,056	\$32,285	\$33,576	\$34,867	\$37,450	\$40,033	\$42,616		
Region 3 Hunterdon, Middlesex and Somerset	Median	\$86,240	\$92,400	\$98,560	\$110,880	\$123,200	\$128,128	\$133,056	\$142,912	\$152,768	\$162,624		
	Moderate	\$68,992	\$73,920	\$78,848	\$88,704	\$98,560	\$102,502	\$106,445	\$114,330	\$122,214	\$130,099	1.6%	3.10%
	Low	\$43,120	\$46,200	\$49,280	\$55,440	\$61,600	\$64,064	\$66,528	\$71,456	\$76,384	\$81,312		\$234,592
	Very Low	\$25,872	\$27,720	\$29,568	\$33,264	\$36,960	\$38,438	\$39,917	\$42,874	\$45,830	\$48,787		
Region 4 Mercer, Monmouth and Ocean	Median	\$76,469	\$81,931	\$87,393	\$98,317	\$109,242	\$113,611	\$117,981	\$126,720	\$135,460	\$144,199		
	Moderate	\$61,175	\$65,545	\$69,915	\$78,654	\$87,393	\$90,889	\$94,385	\$101,376	\$108,368	\$115,359	1.6%	0.00%
	Low	\$38,235	\$40,966	\$43,697	\$49,159	\$54,621	\$56,806	\$58,990	\$63,360	\$67,730	\$72,099		\$205,486
	Very Low	\$22,941	\$24,579	\$26,218	\$29,495	\$32,772	\$34,083	\$35,394	\$38,016	\$40,638	\$43,260		
Region 5 Burlington, Camden and Gloucester	Median	\$67,620	\$72,450	\$77,280	\$86,940	\$96,600	\$100,464	\$104,328	\$112,056	\$119,784	\$127,512		
	Moderate	\$54,096	\$57,960	\$61,824	\$69,552	\$77,280	\$80,371	\$83,462	\$89,645	\$95,827	\$102,010	1.6%	0.00%
	Low	\$33,810	\$36,225	\$38,640	\$43,470	\$48,300	\$50,232	\$52,164	\$56,028	\$59,892	\$63,756		\$179,028
	Very Low	\$20,286	\$21,735	\$23,184	\$26,082	\$28,980	\$30,139	\$31,298	\$33,617	\$35,935	\$38,254		
Region 6 Atlantic, Cape May, Cumberland, and Salem	Median	\$57,458	\$61,562	\$65,666	\$73,874	\$82,083	\$85,366	\$88,649	\$95,216	\$101,782	\$108,349		
	Moderate	\$45,966	\$49,250	\$52,533	\$59,100	\$65,666	\$68,293	\$70,919	\$76,173	\$81,426	\$86,679	1.6%	0.00%
	Low	\$28,729	\$30,781	\$32,833	\$36,937	\$41,041	\$42,683	\$44,325	\$47,608	\$50,891	\$54,175		\$153,730
	Very Low	\$17,237	\$18,469	\$19,700	\$22,162	\$24,625	\$25,610	\$26,595	\$28,565	\$30,535	\$32,505		

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

\* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

\*\*This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3 (Consumer price index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, 2018, 2019 or 2020 because of the lack of authority to do so, may increase rent by up to the applicable combined percentage including 2021 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

\*\*\* This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

\*\*\*\* The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3.

Note: Since the Regional Income Limits for Regions 4, 5, and 6 in 2020 were higher than the 2021 calculations, the 2020 income limits will remain in force for 2021 (as previously required by N.J.A.C. 5:97-9.2(c)).