

CITY OF LINWOOD
ATLANTIC COUNTY, NEW JERSEY



Housing Element & Fair Share Plan

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The original of this document was signed and sealed in accordance with N.J.A.C. 13:41-1.3 (b) and is on file with the City of Linwood Planning Board.

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Executive Summary:

As Linwood continues to satisfy its affordable housing obligations, this Fourth Round Housing Element and Fair Share Plan provides a housing policy framework with a variety of options to provide affordable housing opportunities.

Through this Fourth Round Housing Element and Fair Share Plan, the City promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the City's existing housing stock, and formally acknowledges its continuing constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of very-low, low, and moderate income.

The Fourth Round Housing Element and Fair Share Plan continues to rely on the existing Pinelands Development Ordinance, which ensures that affordable housing is constructed as part of new developments in the City's RG-4 and RG-5 residential zoning districts. The Plan includes allowing the existing mobile home parks to expand and construct new affordable units and/or deed restrict existing units as affordable units as units are vacated. The Plan also identifies opportunities to create new affordable housing on City-owned properties and proposes overlay zoning for 100% affordable housing developments.

This Fourth Round Housing Element and Fair Share Plan, once adopted, will be submitted to the Affordable Housing Dispute Resolution Program ("Program").

Introduction:

The City has prepared a Fourth Round Housing Element and Fair Share Plan in accordance with the requirements set forth in the "Municipal Land Use Law" (N.J.S.A. 40:55D-28) ("MLUL"), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) ("FHA"), as amended by P.L. 2024 c.2, Administrative Directive #14-24, the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et. seq.), and the rules of the now-abolished New Jersey Council on Affordable Housing (N.J.A.C.5:93 et seq.) ("COAH"). This plan is an update to the 2018 Amended Third Round Housing Element and Fair Share Plan, adopted by the Planning Board on July 16, 2018, and endorsed by City Council on August 8, 2018. Pursuant to the Amended FHA, this Fourth Round Housing Element and Fair Share Plan will be filed with the Program within 48 hours of the Planning Board's adoption.

New Jersey affordable housing law began with the New Jersey Supreme Court's (hereinafter the "Supreme Court") creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as "Mount Laurel I." In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there", including those of low and moderate income. Thus, the Supreme Court in Mount Laurel I decision ruled that municipalities should not use their zoning powers to prevent the potential for the development of affordable housing.

Displeased with progress under its earlier decision, in 1983, the Supreme Court decided So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or “Mount Laurel I”. Because the Legislature had not yet acted to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial remedy, now commonly referred to as a “Builder’s Remedy”. That remedy created a special process by which builders could file suit against a municipality for the opportunity to construct housing at much higher densities than a municipality otherwise would allow, creating affordable housing in the process. In essence, Builder’s Remedy lawsuits seek to force municipalities to meet their affordable housing obligations.

Responding to the chaos created by the implementation of the Supreme Court’s Mount Laurel decisions and the many Builder’s Remedy lawsuits that followed, the State Legislature passed the Fair Housing Act (hereinafter “FHA”) in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or “Mount Laurel III”), which created the Council on Affordable Housing (“COAH”) and authorized municipal Housing Elements and Fair Share Plan to be approved by COAH via the granting of Substantive Certification, which would protect municipalities from builder’s remedy lawsuits.

To implement the FHA requirements, COAH adopted a series of regulations. Round One regulations were enacted in 1987. Round 2 regulations were adopted by COAH in 1994. Round 3 regulations were supposed to be adopted in 1999 when the Round 2 rules were set to expire, but the first iteration of Round 3 regulations were not adopted by COAH until 2004. After those regulations were invalidated by the courts, COAH adopted a second iteration of Round 3 regulations in 2008. The second iteration of regulations were also invalidated by the Courts, and after COAH failed to adopt a third iteration of Round 3 regulations in 2014, the Supreme Court issued In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), in which it directed trial courts to assume COAH’s functions and ruled that municipalities would have to get their Third Round Housing Elements and Fair Share Plans approved in the courts via the granting a Judgment of Compliance and Repose (JOR), rather than getting the plans approved by COAH.

On March 20, 2024, this all changed once again when Governor Murphy signed into law, P.L. 2024, C.2, which substantially amended the FHA and created an entirely new affordable housing plan approval process. The amended FHA abolished COAH, and introduced a comprehensive structure for municipalities to meet their obligations before a new entity known as the Affordable Housing Dispute Resolution Program (hereinafter the “Program”), which consists of retired Mount Laurel judges and their Special Adjudicators, once known as Court Masters. The Program was created to approve Fourth Round Housing Elements and Fair Share Plans, along with the underlying local trial Court, and help municipalities mediate with objectors regarding their Fourth Round affordable housing obligations and the approval of the plans. The amended FHA also required the Department of Community Affairs (DCA) to take over the monitoring of affordable units in every municipality in the state, and to draft and release a report calculating non-binding Fourth Round municipal Present and Prospective Need obligation for every municipality in the

state. The DCA released its Fourth Round numbers report in October of 2024. The amended FHA also ordered the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to adopt new UHAC regulations. The amended FHA also changed the way municipalities receive bonus credits amongst other things.

In response to the requirements of the amended FHA, the City of Linwood adopted a resolution on January 29, 2025 committing to a Fourth Round Present Need Obligation of 49 and a Fourth Round Prospective Need Obligation of 25. See Appendix A. The City filed a Declaratory Judgment Complaint on January 30, 2025 with the Program and the Court, along with the Township's Fourth Round numbers resolution. See Appendix A.

The Court entered an Amended Order on June 5, 2025 setting the City's Fourth Round Present Need Obligation at 49 and the City's Fourth Round Prospective Need Obligation at 25. See Appendix B.

Housing Element:

Pursuant to both the FHA and the MLUL, municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations.

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Demographic Characteristics

As indicated above, the MLUL requires an analysis of housing and demographic data as part of any Housing Element. The 2020 Census and the 2023 US Census population estimates are the most recent available comprehensive database of this type of information for Linwood.

Table 1 below provides a comparison of population change in Linwood, Atlantic County, and the State of New Jersey.

Table 1
City of Linwood, Atlantic County and New Jersey
Population Changes: 1940-2023

	City of Linwood		Atlantic County		New Jersey	
Year	Number	Change	Number	Change	Number	Change
1940	1,479	-----	124,066	-----	4,160,165	-----
1950	1,925	30.2%	132,399	6.7%	4,835,329	16.2%
1960	3,847	99.8%	160,880	21.5%	6,066,782	25.5%
1970	6,159	60.1%	175,043	8.8%	7,168,164	18.2%
1980	6,144	-0.2%	194,119	10.9%	7,365,011	2.7%
1990	6,866	11.8%	224,327	15.6%	7,730,188	5.0%
2000	7,172	4.5%	252,552	12.6%	8,414,350	8.9%
2010	7,092	-1.1%	274,549	8.7%	8,791,894	4.5%
2020	6,971	-1.7%	274,534	- < 0.0%	9,288,994	5.7%
2023	6,954	-0.2%	275,213	0.2%	9,290,841	< 0.0%

Source: US Census Bureau, Population Estimates Program
2020 Census Data
U.S. Census Bureau

The age distribution within Linwood indicates a slightly older population than both Atlantic County and the State. This can be attributed to the slow rate of growth in the population over the last 30 years. Approximately 39.0% of the population was over 55 years of age in 2023. The distribution of ages of persons in the City is indicated in Table 2.

Table 2
City of Linwood
Population by Age Group: 2000-2023

	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Population	7,172	100%	7,092	100%	6,971	100%	6,954	100%
Sex	-----	-----	-----	-----	-----	-----	-----	-----
- Male	3,343	46.6%	3,361	47.4%	3,395	48.7%	3,184	45.8%
-Female	3,829	53.4%	3,731	52.6%	3,576	51.3%	3,770	54.2%
Age	-----	-----	-----	-----	-----	-----	-----	-----
Under 5	375	5.2%	323	4.6%	318	4.6%	393	5.7%
5-9 Years	563	7.8%	465	6.6%	437	6.3%	514	7.4%
10-14 Years	628	8.8%	570	8.0%	502	7.2%	418	6.0%
15-19 Years	410	5.7%	577	8.1%	480	6.9%	478	6.9%
20-24 Years	174	2.4%	250	3.5%	360	5.2%	280	4.0%
25-34 Years	547	7.6%	401	5.7%	545	7.8%	482	6.9%
35-44 Years	1,195	16.7%	876	12.4%	733	10.5%	834	12.0%
45-54 Years	1,190	16.6%	1,319	18.6%	963	13.8%	840	12.1%
55-59 Years	411	5.7%	543	7.7%	542	7.8%	541	7.8%
60-64 Years	334	4.7%	483	6.8%	551	7.9%	485	7.0%
65-74 Years	610	8.5%	561	7.9%	821	11.8%	869	12.5%
75-84 Years	504	7.0%	447	6.3%	470	6.7%	607	8.7%
85+ Years	231	3.2%	277	3.9%	249	3.6%	213	3.1%

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Non-family households make up 25.8% of the households in Linwood. This is lower than the County rate of 34.0% and State average of 32.3%. In 2023, the average household size in Linwood is 2.62 persons/dwelling unit, while the County average is 2.42 and the State average is 2.58, making the average household in Linwood larger than that of the County and State.

Education:

Within Linwood's adult population (25 and over) 94.4% have received a high school diploma and 58.6% received a bachelor's degree or higher giving the City a higher percentage of high-school graduate adults and adults who have a bachelor's degree compared to the County. In the County, 89.5% of the adult population has received a high school diploma and 33.3% of the adult population has received a bachelor's degree or higher.

Age of Housing:

Table 3 depicts the number of new housing units constructed between 2000 and 2020 for the City, County, and State.

Table 3
City of Linwood, Atlantic County and New Jersey
Housing Units: 2000, 2010 & 2020

Jurisdiction	Housing Units 2000	Housing Units 2010	Housing Units 2020	Increase	% Increase from 2000-2020
City of Linwood	2,751	2,798	2,813	62	2.3%
Atlantic County	114,090	126,647	132,038	17,948	15.7%
New Jersey	3,310,275	3,553,562	3,761,229	450,954	13.6%

*Source: 2020 Census Data
2010 Census Data
2000 Census Data*

As of 2023, approximately 64.8% of the City's current housing stock was constructed prior to 1980, with 12.7% constructed prior to 1940. The City therefore has what can be considered a housing stock of older age. This is due to the large number of old homes built over 45 years ago when the population was rapidly growing. The age of housing stock can be used as a gauge of the overall condition of housing in the community. In the case of the City of Linwood, a large percentage of homes are expected to have endured the "wear and tear" that typically happens to buildings over long periods of time.

Housing Tenure:

The 2020 Census data indicates that 2,643 housing units (94.0%) in the City were occupied, and 170 units (6%) were vacant. A total of 2,324 units (87.9%) of the occupied units are owner occupied with the additional 319 units (12.1%) occupied by renters.

Table 4
City of Linwood
Housing Tenure: 2000, 2010 & 2020

City of Linwood	2000 Units	2000 % of Total	2010 Units	2010 % of Total	2020 Units	2020 % of Total
Total Housing Units	2,751	100%	2,798	100%	2,813	100%
Occupied Housing Units						
-Owner Occupied	2,370	86.2%	2,342	83.7%	2324	82.6%
-Renter Occupied	277	10.1%	311	11.1%	319	11.3%
-Total	2,647	96.2%	2,653	94.8%	2643	94.0%
Vacant Housing Units	104	3.8%	145	5.2%	170	6.0%
Seasonal, Recreational Use	39	1.4%	43	1.5%	69	2.5%
Rental Vacancy Rate	3.1%	-----	0.0%	-----	4.8%	-----
Household Size						
-Owner Occupied	2.74	-----	2.76	-----	2.61	-----
-Renter Occupied	1.86	-----	2.70	-----	2.54	-----

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Physical Character of the City Housing Stock

Table 5 provides an inventory of the age of the housing stock in the City of Linwood.

Table 5
City of Linwood
Inventory of Housing Age: 2023

Year(s) Constructed	Number	Percent of Total
2020 or later	0	0.0%
2010-2019	60	2.1%
2000-2009	172	6.0%
1990-1999	325	11.4%
1980-1989	448	15.7%
1970-1979	297	10.4%
1960-1969	522	18.3%
1950-1959	487	17.0%
1940-1949	184	6.4%
1939 or earlier	364	12.7%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

In 2023, the median value of the owner-occupied units in the City of Linwood was \$351,100. The median home value has increased since the release of the 2020 Census,

which was \$283,200. The City of Linwood average median home value is about 15.6% more than that of Atlantic County, and about 17.9% less than the average in New Jersey.

Table 6
City of Linwood, Atlantic County and New Jersey
Median Home Values: 2000, 2010, 2020 & 2023

Median Home Value	2000	2010	2020	2023	Percent Increase 2020-2023
City of Linwood	\$165,100	\$356,300	\$283,200	\$351,100	24.0%
Atlantic County	\$122,000	\$264,400	\$222,600	\$303,800	36.5%
New Jersey	\$170,800	\$357,000	\$355,700	\$427,600	20.2%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

As noted in Table 7 the majority of owner-occupied units are valued at less than \$500,000. Of the 2,352 owner occupied units reported in the 2023 American Community Survey, 79.5% were valued at less than \$500,000.

Table 7
City of Linwood
Home Value of Specified Owner-Occupied Units: 2023

Value of Specified Owner Occupied Units	Number of Units	Percent of Total
Less than \$50,000	26	1.1%
\$50,000- \$99,999	17	0.7%
\$100,000- \$149,999	29	1.2%
\$150,000- \$199,999	135	5.7%
\$200,000- \$299,999	648	27.6%
\$300,000- \$499,999	1,015	43.2%
\$500,000- \$999,999	302	12.8%
Over \$1,000,000	180	7.7%

Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data

As noted in Table 8, the majority of the gross rents charged were less than \$2,500 per month. Of the 241 rental units reported in the 2023 American Community Survey, 74.3% of the units were rented at less than \$2,500.

Table 8
City of Linwood
Gross Rent of Specified Renter Occupied Units: 2023

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than \$500.00	21	8.7%
\$500.00-\$999.00	4	1.7%
\$1,000.00-\$1,499.00	8	3.3%
\$1,500.00-\$1,999.00	78	32.4%
\$2,000.00-\$2,499.00	68	28.2%
\$2,500.00-\$2,999.00	35	14.5%
\$3,000 or more	27	11.2%
No cash rent	19	-----

*Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data*

The median gross rent in Linwood was \$2,070.00 in 2023. The median rent is higher than that of the Atlantic County and New Jersey averages.

Table 9
City of Linwood, Atlantic County and New Jersey
Median Rents: 2000, 2010, 2020 & 2023

Median Rent	2000	2010	2020	2023	% Change 2020-2023
Linwood	\$714.00	\$1,195.00	\$1,640.00	\$2,070.00	26.2%
Atlantic County	\$677.00	\$955.00	\$1,129.00	\$1,325.00	17.4%
New Jersey	\$751.00	\$1,092.00	\$1,368.00	\$1,667.00	21.9%

*Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data*

Single unit detached homes remain the dominant housing structure in Linwood, representing 88.0% of total housing units. In addition, mobile homes account for 0.3% of the housing structures in the City. Even though mobile homes are not deed restricted for affordable housing, they often help provide more affordable housing. This is not the case in the City, due to the lack of mobile homes. The rent prices in Linwood are much higher in relation to the cost of owning a home when comparing it to the County and State averages.

Table 10
City of Linwood
Types of Dwelling Units: 2023

Type of Unit	Number of Units	Percent of Total
1- Unit; detached	2,516	88.0%
1- Unit; attached	142	5.0%
2 Units	23	0.8%
3 or 4 Units	73	2.6%
5 to 9 Units	16	0.6%
10 to 19 Units	14	0.5%
20 or more Units	65	2.3%
Mobile Homes	10	0.3%
Boat, RV, Van, etc.	0	0.0%
Total	2,859	100%

*Source: US Census Bureau
2023 American Community Survey 5-Year Estimates*

Table 11 provides Census data regarding the condition of housing and whether units are overcrowded:

Table 11
City of Linwood
Condition of Housing: 2023

Characteristic	Number of Units
Overcrowded (> 1 person per room)	23
Total Units lacking complete plumbing	15
Total Units lacking complete kitchen	42

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

According to the 2023 American Community Survey, the 2023 median household income in the City of Linwood was \$135,904. Additionally, 2.4% of the City's population (166 people) identified as living below the poverty level.

Units Affordable to Low- and Moderate-Income Households

Units are affordable to low and moderate-income households if the maximum sales price or rent is set within a specified formula as per UHAC regulations. A moderate-income household is a household whose gross family income is more than fifty percent (50%) of the median income, but less than eight percent (80%) of median income for households of the same size within the housing region. A low-income household is a household whose gross family income is equal to or less than fifty percent (50%) of median gross household income for a household and a very-low-income household is classified as earning less than thirty percent (30%) of the median area income of the same size within the housing region for the City of Linwood. Linwood is in Region 6, which encompasses Atlantic, Cape May,

Cumberland and Salem counties. The median household income in the City of Linwood in 2023 was \$135,904.

Table 12
2024 Affordable Housing Regional Income Limits
By Household Size Region 6

	1 Person	1.5 Person	2 Person	3 Person	4 Person
Median	\$68,852	\$73,770	\$78,688	\$88,524	\$98,360
Moderate	\$55,081	\$59,016	\$62,950	\$70,819	\$78,688
Low	\$34,426	\$36,885	\$39,344	\$44,262	\$49,180
Very Low	\$20,655	\$22,131	\$23,606	\$26,557	\$29,508

	4.5 Person	5 Person	6 Person	7 Person	8 Person
Median	\$102,294	\$106,228	\$114,097	\$121,966	\$129,835
Moderate	\$81,835	\$84,983	\$91,278	\$97,573	\$103,868
Low	\$51,147	\$53,114	\$57,049	\$60,983	\$64,917
Very Low	\$30,688	\$31,868	\$34,229	\$36,590	\$38,950

Source: AHPNJ, April 12, 2024

Based on the qualifying formula in N.J.A.C. 5:80-26, the monthly cost of shelter, which includes mortgage (principal and interest), taxes, insurance and homeowners or condominium association fees, may not exceed twenty-eight percent (28%) of gross monthly household income based on a five percent (5%) down payment. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices. The maximum sales prices must now be affordable for households earning no more than seventy percent (70%) of median income. The sales prices must average fifty-five percent (55%) of median income.

Under UHAC regulations, rents including utilities may not exceed thirty percent (30%) of gross monthly income. The average rent must now be affordable for households earning fifty-two percent (52%) of median income. The maximum rents must be affordable for households earning no more than sixty percent (60%) of median income. In averaging fifty-two percent (52%), one rent may be established for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The utility allowance must be consistent with the utility allowance approved by HUD and utilized in New Jersey. In addition, thirteen percent (13%) of all restricted rental units must be affordable to households earning no more than thirty percent (30%) of median income.

Based upon the average household size of 2.62 in Linwood City in 2023 and the regional limits, the median income in Region 6 for the City of Linwood used for 2024 is \$88,524. At a minimum, 58 owner occupied units and 33 renter occupied units could be considered affordable to three-person very-low-, low- and moderate-income households as indicated

in Table 13. Of the owner occupied units, 6 units could be considered affordable to a three-person very-low-income household or three-person low-income household and 52 units could be considered affordable to a three-person low-income household or three-person moderate income household. There are also 250 owner occupied units that fall somewhere between moderate income three-person households and unaffordable. Of the renter occupied units, 21 units could be considered affordable to very-low-income households. 4 more units could be considered affordable for a three-person very-low-income or low-income household and 8 more units could be considered affordable to a three-person low-income or moderate-income household. 78 renter occupied units also fall between moderate-income and unaffordable. Based upon these numbers a minimum of approximately 3.2% of the 2,859 total housing units in the City in 2023 are potentially affordable. Of these, a minimum of 31 units representing approximately 1.1% could be affordable to very low- and low-income households with the remaining 60 units representing approximately 2.1% could be affordable to low-income and moderate-income households. Although these figures are estimates using assumptions regarding household size, it appears that the City of Linwood has a small number of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits. Even when factoring in the number of houses that fall in the moderate-income-unaffordable range and houses without rent/mortgages, there is a very high percentage of unaffordable houses in Linwood.

Table 13
City of Linwood
Estimate of 2023 Housing Units Affordable to Low & Moderate Income Households
Information for Median Income, Mortgage and Rental Information

Income Level	Annual Income	
Median Household Income	\$88,524	
Moderate Income	\$44,262.00 - \$70,819.20	
Low Income	\$26,557.20 - \$44,262.00	
Very Low Income	< \$26,557.20	
Income Level	Affordable Monthly Rent	Affordable Monthly Mortgage
Moderate Income	\$1,106.55 - \$1,770.48	\$1,032.78 - \$1,652.44
Low Income	\$663.93 - \$1,106.55	\$619.66 - \$1,032.78
Very Low Income	< \$663.93	< \$619.66
Mortgage Status and Selected Owner Costs	Number of Units	Affordability
Owner Occupied Units with a Mortgage	1,512	
Less than \$500.00	0	Very Low Income
\$500.00-\$999.00	6	Very-Low Income – Low Income
\$1,000.00-\$1,499.00	52	Low Income – Moderate Income
\$1,500.00-\$1,999.00	250	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	242	Not Affordable
\$2,500.00-\$2,999.00	361	Not Affordable
\$3,000.00 or more	601	Not Affordable
Not Mortgaged	840	N/A
Renter Occupied Housing Units	241	Affordability
Less than \$500.00	21	Very Low Income
\$500.00-\$999.00	4	Very Low Income – Low Income
\$1,000.00-\$1,499.00	8	Low Income – Moderate Income
\$1,500.00-\$1,999.00	78	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	68	Not Affordable
\$2,500.00-\$2,999.00	35	Not Affordable
\$3,000.00 or more	27	Not Affordable
No Rent Paid	19	N/A

*Source: 2020 Census Data
2023 American Community Survey 5-Year Estimates
AHPNJ, April 12, 2024*

Housing Stock, Population & Employment Projections

According to the New Jersey Department of Labor, Residential Building Permits Issued, 106 new building permits were issued in the City of Linwood from 2013 through 2022.

Housing Unit Projections

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Table 19 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 32 new units were certified, and 27 units were demolished. There is an annual average of 3 Certificates of Occupancy issued per year, and 2 demolitions per year. This means that an average of 1 new net dwelling occur per year over this time frame. If this rate were to remain relatively constant, the City could see a net increase of 9 to 10 more units over the next 10 years.

Table 14
City of Linwood
Residential Construction Certificate of Occupancy
and Demolition Permits Issued: 2013-2023

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	2	5	-3
2014	2	4	-2
2015	5	4	1
2016	4	2	2
2017	4	5	-1
2018	1	2	-1
2019	1	0	1
2020	2	2	0
2021	1	3	-2
2022	3	0	3
2023	7	0	7
Total	32	27	5
Annual Average	3	2	1

Source: New Jersey Department of Community Affairs, Division of Codes & Standards, Construction Reporter

Analysis of Existing Employment:

The 2023 American Community Survey data indicates that the civilian labor force (16 years and older) for the City of Linwood and Atlantic County in 2023 were 3,625 and 144,112 respectfully. The Linwood civilian labor force represents 2.5% of the County civilian labor force. In 2023, the percent of the persons age 16 and over in the civilian labor force in the City of Linwood was 65.4%. This average is slightly higher than the County average of 64.1%. The City also had unemployment rates that were slightly higher

than the County, with rates that were 4.7% (262 persons) and 4.1% (9,185 persons) respectfully.

The Census data distribution of occupational positions in the City of Linwood generally reflects that of Atlantic County and the State. The largest difference, at the State level, comes in the management, business, science, and arts occupations. Approximately 53.9% of Linwood’s labor force works in the management, business, science, and arts occupations compared to 47.4% of the State.

Table 15
City of Linwood and Atlantic County
Civilian Labor Force Characteristics: 2023

	City of Linwood		Atlantic County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	3,625	65.4%	144,112	64.1%
Employed	3,363	60.6%	134,927	60.1%
Unemployed	262	4.7%	9,185	4.1%

Source: US Census, 2023 American Community Survey 5-Year Estimates

Table 16
City of Linwood, Atlantic County and New Jersey
Occupation Distribution: 2023

Occupation	City of Linwood	Atlantic County	New Jersey
Management, business, science and arts occupations	53.9%	38.6%	47.4%
Service Occupations	15.6%	27.0%	15.5%
Sales and Office Occupations	19.5%	16.8%	19.0%
Natural resources, construction and maintenance occupations	4.8%	7.5%	6.9%
Production, transportation and material moving occupations	6.2%	10.1%	11.2%

Source: US Census, 2023 American Community Survey 5-Year Estimates

In 2023, the median household income in Linwood was \$135,904. However, there is a wide range of income levels, as 46.2% of households make over \$150,000 and 15.7% make under \$50,000. The distribution of household income is indicated in Table 17.

Table 17
City of Linwood
Household Income: 2023

Household Income	Number	Percent
Less than \$10,000	59	2.1%
\$10,000- \$14,999	31	1.2%
\$15,000- \$24,999	65	2.5%
\$25,000- \$34,999	86	3.3%
\$35,000-\$49,999	172	6.6%
\$50,000- \$74,999	209	8.0%
\$75,000- \$99,999	324	12.4%
\$100,000- \$149,999	457	17.5%
\$150,000 or more	1,207	46.2%

Source: US Census, 2023 American Community Survey 5-Year Estimates

As mentioned in the 'Analysis of Existing Employment' section, data from the 2023 American Community Survey data indicates a civilian labor force (those in the population above the age of 16) of 3,625, of which 3,363 were employed. Classifications of workers by occupation distribution can be referenced in Table 18 which lists occupation by industry of workers in the City.

Table 18
City of Linwood
Employment Classification: 2023

Industry	Number of Employees	% of Total Employed
Agriculture, forestry, fishing, hunting and mining	1	0.0%
Construction	190	5.6%
Manufacturing	239	7.1%
Wholesale Trade	39	1.2%
Retail Trade	233	6.9%
Transportation, warehousing and utilities	112	3.3%
Information	53	1.6%
Finance, Insurance, Real Estate and Rental/Leasing	297	8.8%
Professional, scientific, management, administrative and waste management services	631	18.8%
Educational services, health care and social assistance	874	26.0%
Arts entertainment, recreation, accommodation and food services	302	9.0%
Other services except public administration	80	2.4%
Public Administration	312	9.3%

Source: US Census, 2017-2023 American Community Survey 5-Year Estimates

Population and Employment Projections

The South Jersey Transportation Planning Organization (“SJTPO”) is the Metropolitan Planning Organization for the southern New Jersey region, which contains all municipalities in the Counties of Salem, Atlantic, Cape May, and Cumberland. The SJTPO publishes population and employment forecasts for each county and municipality in the region. Between 2020 and 2060, the SJTPO projects population decrease and significant employment growth throughout the region. In the City of Linwood, the SJTPO projects local employment growth of 1,198 jobs (+35.2%) with an ample decrease in population of 347 people (-5.0%). As shown in Table 18, the City is expected to experience an employment increase (+35.2%) higher than what is expected to occur throughout the County (+25.1%). However, the population is expected to decrease more significantly in Linwood (-5.0%) when compared to the County (-3.1%). This increase of jobs will provide more opportunities for the slightly smaller number of people who will live there in the future

Table 19
City of Linwood
Population and Employment Projections: 2020-2060

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
City of Linwood	6,971	6,624	- 5.0%	3,408	4,606	+ 35.2%
Atlantic County	274,534	266,014	- 3.1%	150,987	188,855	+ 25.1%
SJTPO Region	588,786	557,050	- 5.4%	310,002	378,855	+ 22.2%

Source: SJTPO Population and Employment Projections 2020-2060

Lands Most Appropriate for Affordable Housing

In general, sites that are most appropriate for affordable housing are those that have the necessary infrastructure and are not encumbered by environmental constraints. Lands within Planning Area 1 Metropolitan Area in the City, are appropriate locations for affordable housing. These are the areas that the State has, for the most part, encouraged growth. The City also has land area within the Planning Area 5 Environmentally Sensitive Area along Patcong Creek to the west and along the bay and marshlands to the east; these areas are not appropriate for development. The areas of the City within the PA1 Metropolitan Area are also within the NJDEP Sewer Service Area. The entire City is served by public sanitary sewer and public water.

Multigenerational Family Housing Continuity

The FHA requires the Housing Element and Fair Share Plan to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission,

adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). To date, no recommendations have been published.

A review of the City's ordinance indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of allowing senior citizens to reside at the homes of their extended families. The ordinances in the City of Linwood do not detract from the multigenerational family continuity goal. The City should update its land use ordinance to expand the areas where accessory apartments and in-law suites are permitted uses.

Consideration of Affordable Housing Options

The City did not receive proposals from developers of affordable housing projects to satisfy the City's Fourth Round Prospective Need Obligation. The City believes that the projects that exist and are proposed in this Housing Element and Fair Share Plan represent the best options for affordable housing in the City. While the City recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time.

FAIR SHARE PLAN

Affordable Housing and Fair Share Plan

In 1975, in the case Southern Burlington County NAACP v. Township of Mt. Laurel (Hereinafter "Mt. Laurel I"), the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide for the construction of low- and moderate-income housing. The court's 1983 decision in Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983) ("Mt. Laurel II") expanded the obligation in ruling that all municipalities share in this constitutional obligation to provide a realistic means for addressing a fair share of the regional present and prospective need for housing affordable to low- and moderate-income families provided that any portion of the municipality is located in a "growth area" as set forth in the SDGP. As such, through a municipality's zoning and land use regulations, it is to be realistically possible, through provision of a variety of housing choices, for all categories of people within Housing Region 6 (including Salem, Cumberland, Cape May and Atlantic counties) to live if they choose in the City of Linwood.

City of Linwood Fair Share Obligations

In accordance with the Amended Fair Housing Act, this Fourth Round Housing Element and Fair Share Plan will set forth how the City has addressed prior obligations as well as how it intends to address its Fourth Round affordable housing obligations:

A. Present Need (Rehabilitation) Obligation

The Present Need Obligation, also known as the rehabilitation obligation, can be defined as an estimate of the number of substandard existing deficient housing units currently occupied by low- and moderate-income households. Linwood has a Present Need Obligation of **49** units.

B. Prior Round Obligation (1987-1999)

The City of Linwood has a Prior Round Obligation of **140** units.

C. Third Round Obligation (1999-2025)

The City of Linwood has a Third Round Obligation of **112** units.

D. Vacant Land Adjustment of Prior Round and Third Round Obligations

The City's Prior Round and Third Round new construction obligations of 140 and 112, respectively, leaves Linwood with a new construction obligation of 252. Due to those new construction obligations being outsized as compared to the availability of developable land in Linwood, the City received an initial vacant land adjustment that reflects a Realistic Development Potential (RDP) and an unmet need. For the

Prior Round, this resulted in an RDP of three (3) and an unmet need of 137. The Third Round Court-approved Vacant Land Adjustment resulted in an RDP of 12 and an unmet need of 100.

E. Fourth Round Prospective Obligation (2025-2035)

The City of Linwood has a Fourth Round Prospective Need Obligation of **25** units.

Housing Strategy:

Affordable Housing Caps and Requirements

In accordance with the requirements set forth in the Amended FHA, the City of Linwood will address the following:

- A. This plan requires that thirteen percent (13%) of all the affordable units referenced in the Agreement, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, will be very low income units (defined as units affordable to households earning thirty percent (30%) or less of the regional median income by household size), with half of the very low income units being available to families.
- B. No more than twenty-five percent (25%) of a municipality's obligation can be satisfied with rental bonus credits.
- C. This plan will ensure that at least fifty percent (50%) of the units addressing the Fourth Round Prospective Need Obligation will be affordable to a combination of very-low-income and low-income households, while the remaining affordable units will be affordable to moderate-income households.
- D. This plan will ensure that a minimum of twenty-five percent (25%) of the Fourth Round Prospective Need Obligation, exclusive of rental bonus credits, will be met through rental units, including at least half in rental units available to families.
- E. This plan will ensure that at least half of these units, exclusive of any bonus credits, addressing the City's Fourth Round Prospective Need Obligation will be available to families.
- F. This plan complies with the Fourth Round age-restricted cap of thirty percent (30%), exclusive of rental bonus credits.

The housing strategy outlined herein addresses the City's 49-unit Fourth Round Rehabilitation Obligation, 140-unit Prior Round Obligation, 112-unit Third Round

Obligation, and the 25-unit Fourth Round Obligation. Below are the mechanisms the City has put in place to address the affordable housing obligations.

Addressing the Present Need Obligation

The purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety violations that require the repair or replacement of a major system. A major system includes a roof, plumbing, heat, electricity, sanitary plumbing and/or a load bearing structural system. Upon rehabilitation, housing deficiencies are corrected, and the unit is brought up to New Jersey Uniform Construction Code standards.

Based on the DCA's calculation for the municipality's present need, a rehabilitation component of forty-nine (49) units was accepted by the City. The City plans to satisfy this obligation by continuing its participation in the Atlantic County Improvement Authority's rehabilitation program and/or through other rehabilitation programs selected by the City as may become available.

Addressing the Prior Round Obligation

The City has a Prior Round obligation of 140 units.

The City received a Pre-Meditation Report from COAH that concluded the RDP for the Prior Round was 3 units. In accordance with the Court-approved Settlement agreement, 2 bedrooms in an existing three-bedroom group home facility operated by Delta Community Supports and located at 115 Carol Road, and one bonus credit. The third bedroom will go towards the Prior Round Unmet Need of 138, resulting in an Unmet Need of 137 for the Prior Round.

Addressing the Third Round Obligation

Linwood has a Third Round (1999-2025) Obligation of 112 units.

A vacant land analysis was conducted and in accordance with the Court-approved Settlement Agreement and the Consent Order of Compliance and Repose (See Appendix C), the municipality has a Third Round RDP of 12 units. This RDP will be satisfied as follows:

ARC of Atlantic County:

As per the Court-approved Settlement Agreement and Consent Order of Compliance and Repose, the City of Linwood would provide funding to the ARC of Atlantic County for the construction of a three-bedroom group home. The City agreed to contribute \$40,000 per bedroom, or \$120,000 for the group home. In the Court-approved Settlement Agreement, the City was anticipating to apply 3 credits and 3 bonus credits for a three-bedroom group home. The ARC of Atlantic County purchased 1717 Dianne Court, which was a four-

bedroom home, and the City provided \$160,000 from the City’s Affordable Housing Trust Fund. This provided the City with 4 credits and 4 bonus credits.

Accessory Apartment Program:

The City has contracted with Triad Associates to administer the six-unit Accessory Apartment Program. See Appendix D. The Linwood program will be a mix of illegal, existing apartments and new accessory apartments. Only the new accessory apartments will be the focus of a monetary contribution. The City also adopted an Accessory Apartment ordinance. See Appendix E. The program will be funded via development fees, the municipal budget, by bonding or a combination of the above. Linwood will provide one very-low-income accessory apartment with the balance being two, low-income and three moderate- income accessory apartments.

Table 20
Third Round Affordable Housing Unit Crediting

Development	VLI	Rentals	Units	Bonus Credits	Total Credits	Status
ARC of Atlantic County – 1717 Dianne Court	4	4	4	4	8	Constructed & Occupied
Accessory Apartment Program		6	6		6	Ordinance in full effect
Total Credits	4	10	10	4	14	

The City has two surplus credits as a result of the extra bedroom in the ARC of Atlantic County group home that will be applied to the Unmet Need for the Third Round, reducing it from 100 units to 98 units.

Addressing the Fourth Round Obligation

Linwood has a Fourth Round (2025-2035) Obligation of 25.

Pursuant to N.J.A.C. 5:97-5.1(d) and the City’s 2018 Settlement Agreement with FSHC and the Consent Order, the City is entitled to rely on the previous Vacant Land Adjustments which established its RDP and that said RDP shall not be revisited absent any substantial “changed circumstances”.

Due to limited vacant and developable land that is within the City’s land use jurisdiction, the City qualifies for a vacant land adjustment. The City performed a vacant land analysis and because the Realistic Development Potential associated with the qualifying vacant parcels is addressed in the Third Round Fair Share Plan, the Fourth Round RDP is zero (0).

In the time since the Court-approved Settlement Agreement and Final Judgment of Compliance and Repose, several lots identified as vacant and developable have been developed with single-family dwellings. The following table is an update of the status of the developable parcels identified in the Third Round’s vacant land analysis:

Table 21
Developable Vacant Lots Greater than 0.5 Acres

Block	Lot	Property Location	Developable Acreage	Current Condition of Property
6	38.01	495 Oak Lane	0.96	Vacant
12	20	Wabash & Cleveland Avenues	0.8523	City purchased property using County Open Space Funds in 2020
16.01	31.07	18 Seagarden Drive	1.33	Vacant
16.01	31.08	16 Seagarden Drive	0.97	Vacant
27	16	1925 Shore Road	0.5671	Lot consolidated with adj. lot and no longer vacant
33	6	100 E. Seaview Avenue	0.5267	New dwelling constructed
33	12.01	1807 Franklin Boulevard	1.3897	Vacant
102	5.01	321 Murphy's Way	0.65	New dwelling constructed
110	3	1145 Woodlynne Boulevard	0.5528	New dwelling constructed
184	1	750 Shore Road	1.8885	Parcel subdivided; 3 new dwellings constructed

Based on an analysis of property tax records, approvals and aerial imagery, the City has determined that there have been no changed circumstances that would generate new realistic development potential since the vacant land analysis contained in the Court-approved 2018 Third Round Housing Element and Fair Share Plan, Court-approved 2018 Settlement Agreement and Consent Order of Compliance and Repose.

This analysis confirmed that there were no properties representing a changed circumstance requiring a Fourth Round RDP obligation. This is largely due to the fact that the City lacks developable land as demonstrated by the vacant land adjustment. As such, the City's RDP is zero (0).

Because the City has a Fourth Round RDP obligation of zero (0) unit, the entirety of the City's Fourth Round Prospective Need obligation of 25 units is considered Unmet Need.

The Amended FHA requires a municipality that receives an adjustment of the prospective need to identify sufficient parcels that are likely to redevelop during the fourth round to address 25 percent of the "adjusted number" with realistic or meaningful zoning. While the plain reading of the Amended FHA could mean that the "adjusted number" is RDP then the City would have a zero (0) obligation toward this requirement because the Fourth Round RDP is zero (0). If, however, a Court determines that the "adjusted number" is unmet need, the City is complying through the compliance mechanisms already approved by the Court in the Consent Order of Compliance and Repose.

Caring, Inc. - 1803 Shore Road

Caring, Inc. is currently constructing a five (5) bedroom group home on Lot 10 in Block 28.10. The group home will be rented to low- to very-low-income individuals. Once construction is completed, a 40-year deed restriction will be required.

As per N.J.A.C. 5:93-1.3, the site for the proposed project is Approvable, Available, Developable and Suitable. The site is considered to be an approvable site due to its ability to be developed with affordable housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site has a clear title and is free of encumbrances which would preclude the development of affordable housing, making it an available site. The site is also developable, meaning that it has appropriate water and sewer infrastructure available. It is also considered suitable, meaning that it is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

Transitional Living:

Surfside Recovery is an existing transitional living house with a total of 5 bedrooms and is located at 8 Marvin Avenue (Block 177, Lot 7.01). The property is licensed by the State of New Jersey as a Rooming and Boarding House. Annual inspections are conducted by the DCA. In accordance with the new legislation, in the Fourth Round, municipalities can count credits for transitional housing for up to 10% of the fair share obligation. The City is applying two (2) credits towards the Fourth Round obligation for this facility.

Table 22
Fourth Round Affordable Housing Unit Crediting

Development	Special Needs	Family	Senior	Rentals	Units	Bonus Credits	Total Credits
Caring, Inc. 1803 Shore Road	5			5	5	5	10
Transitional Living Surfside Recovery				2	2		2
Total Credits	5	0	0	7	7	5	12

The total of 12 units generated from the bedrooms in the Caring, Inc. group home and the Surfside Recovery transitional living facility will be applied to the Fourth Round Unmet Need reducing the Unmet Need to 13 units.

Vacant Land Analysis

The conditions remain unchanged from the vacant land analysis done for the Third Round. The RDP from the Third Round was 12 units. The vacant land analysis continues to support an RDP of zero (0) units.

The City's vacant land analysis resulted in a combined Prior Round, Third Round and Fourth Round RDP and unmet need as follows:

Table 23
Summary of Fair Share Obligation

Rehabilitation Share	0
Prior Round Obligation	140
Third Round Obligation	112
Fourth Round Obligation	25
City Obligation After Vacant Land Adjustment	
Realistic Development Potential for Prior Round and Third Round	15
Realistic Development Potential for Fourth Round	0
Unmet Need	272

The City is implementing a comprehensive plan that provides for a mix of housing types including accessory apartments and overlay zoning to address the unmet need obligation.

Addressing the Unmet Need

Linwood has an existing Assisted Living Facility called Brandall Estates. Located at 432 Central Avenue, Brandall Estates contains 90 bedrooms. As per statute, 10 percent of all assisted living bedrooms must be available to Medicaid Waiver recipients. As a result, nine of the bedrooms qualify for credit and will address a portion of unmet need.

The balance of unmet need will be addressed by the City's adopted overlay zoning in several locations. This overlay zoning falls into two categories (a) **Mixed-use zoning**, defined as overlay zoning for mixed- use development with the first floor required to be commercial, and up to two stories of residential over commercial and (b) **Mixed-use/residential zoning**, defined as overlay zoning that permits either mixed-use development with the first floor commercial and up to two stories of residential over commercial or residential-only development with up to three stories of residential uses and no commercial use required. Both of these zones will allow up to 15 units per acre, with a 15 percent set- aside for rental units or a 20 percent set-aside for for-sale units. See Appendix F. The blocks and lots in each category of overlay zoning are listed below:

Table 24
Lots within Affordable Overlay Zone I

Mixed-use zoning	Location
7- Eleven	1413 New Road (Block 1, Lot 46.02)
The Exchange	2110 New Road (Block 6, Lot 24)
Clay's Climate Control	501 W. Patcong (Block 1, Lot 43.01)

Table 25
Lots within Affordable Overlay Zone II

Mixed-use/residential zoning	Location
Overlay Zones- West Side of New Road	Block 1, Lots 29.01, 29.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39, 43.02, 46.01, 47, 48
Overlay Zones in southern part of New Road	Block 1, Lot 24 Block 6, Lots 25, 26, 36, 40 Block 19, Lots 5,6 and 7

As another provision to address unmet need, the City adopted an Ordinance requiring mandatory affordable housing set aside for all new multifamily residential developments of five units or more. The set aside for for-sale developments will be 20 percent and 15 percent for rental units. The provisions of the ordinance will not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. See Appendix G.

The City maintains and will maintain in full effect for the duration of the forthcoming round, an affordable housing ordinance which includes provisions establishing a mandatory affordable housing set-aside requirement and has established two affordable housing overlay zones which require the development of additional low- and moderate-income housing opportunities.

Very Low-Income Units

Pursuant to the amended FHA (P.L. 2008, c.46), the City must ensure that at least 13% of affordable housing units approved and constructed (or to be constructed) after July 17, 2008, are available to very low-income households. The City will exceed the requirement that 13% of units be available to very low-income households in both the Third Round and Fourth Round.

Per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing the Fourth Round Prospective Need must be “available for families with children.” To meet this requirement, the City will continue to pursue affordable housing opportunities for family rental units.

Income and Bedroom Distribution

The City will continue to follow the UHAC rules and regulations and ensure that the new affordable housing developments will comply with N.J.A.C. 5:93-7.2 through 7.3.

Affordable Housing Administration and Affirmative Marketing

Linwood currently has a Court-approved Affordable Housing Ordinance, Chapter 78 of the City Code (See Appendix H). The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the City, including, but not limited to, the phasing of affordable units, the mix of very-low-, low- and moderate-income units, bedroom distribution, occupancy standards, affordability controls, rents and sales prices, affirmative marketing, and income qualification. The Affordable Housing Development Fees are contained in the City's Code in Chapter 124 Development Fees. See Appendix I.

The City will prepare an updated Affordable Housing Ordinance in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations, once the DCA and HMFA finalize their rule proposals.

The City shall adopt by resolution an updated Affirmative Marketing Plan. The City's Administrative Agent designated by the City of Linwood, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

The City has appointed a Municipal Housing Liaison by resolution. See Appendix J. The City does have a contract with Triad Associates to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the City. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the City's housing region, Region 6, consisting of Atlantic, Cape May, Cumberland, and Salem counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year (or 40-year for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 *et seq.* This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

State Development and Redevelopment Plan

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SRDP) and the draft proposed SDRP as the proposed projects and zoning mechanisms will provide the opportunity for the construction of affordable housing.

The City of Linwood is located in the PA-1 Metropolitan Planning Area. Per the SDRP, the intent for PA-1 is to:


- provide for much of the State’s future redevelopment;
- revitalize cities and towns;
- promote growth in compact forms;
- stabilize older suburbs;
- redesign areas of sprawl; and
- protect the character of existing stable communities.

Areas of the City that are situated in the PA-5 Environmentally Sensitive areas are not suitable for development and per the SDRP, the intent for PA-5 is to:

- protect environmental resources through the protection of large contiguous areas of land;
- accommodate growth in Centers;
- protect the character of existing stable communities;
- confine programmed sewers and public water services to Centers; and
- revitalize cities and towns.

The City continues to encourage the development of affordable housing in the PA-1. This is consistent with the overall SDRP goal to direct redevelopment and growth into areas where infrastructure can support the development and support services such as open space, retail shopping and public transportation are within walking distance.

Cost Generation

The City’s Subdivision of Land and Site Plan Review and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The City will amend, if needed, the Land Use Board rules for expediting the review of development applications for affordable housing projects, including, but not limited to, scheduling special monthly public hearings. All development applications containing affordable housing shall be reviewed for consistency with the City’s ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the FHA regarding unnecessary cost-generating requirements. 

Once the DCA and HMFA finalize their rule proposes, the City will revise its Subdivision of Land and Site Plan Review and Zoning ordinances, if needed, in accordance with the DCA’s proposed new regulations (N.J.A.C. 5:99), and UHAC’s new 2025 regulations in order to comply with the new requirements to address cost-generative issues.

Spending Plan

The City will prepare a Fourth Round Spending Plan which discusses anticipated revenues, collection of revenues, and the use of revenues, in accordance with N.J.A.C. 5:93-5.1(c).

All collected revenues are placed in the City's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the City will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement and Consent Order of Compliance and Repose.

The City may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures. N.J.S.A. 52:27D-329.2 permits the use of revenues generated by a development fee ordinance for activities that address the municipal fair share obligation including, but not limited to, rehabilitation, new construction, improvement to land, roads and infrastructure for affordable housing, assistance to render units more affordable, and administrative costs of housing plan implementation.

A minimum of 30% of the collected development fees must be used to provide affordability assistance to low- and moderate-income households in affordable housing units included in the City's Fair Share Plan. A minimum of one-third (1/3) of the affordability assistance must be utilized for very-low-income units.

No more than 20% of the revenues collected each year from development fees shall be spent on administrative fees, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

The adoption of the City's Spending Plan will constitute a commitment for expenditure pursuant to N.J.S.A. 52:27D-329.2. The four-year deadline to commit and expend collected fees for emerging compliance mechanisms shall commence upon the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

Summary

Through the proposed mechanisms addressed in this Housing Element and Fair Share Plan, the City will be able to satisfy its Rehabilitation, Prior Round, Third Round and Fourth Round Prospective Need affordable housing obligations by 2035 providing for a realistic opportunity for the production of very low-, low- and moderate-income units within the City.

**APPENDIX A – Fourth Round Declaratory Judgment Complaint with City
Resolution Committing to Fourth Round Obligations**

Joseph L. Youngblood, Jr., Esquire
Attorney ID: 271931971
 YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.
 1201 New Road, Suite 215
 Linwood, New Jersey 08221
 (609) 601-6600

Attorney for Declaratory Plaintiff, City of Linwood

	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
	:	ATLANTIC COUNTY
	:	
IN THE MATTER OF THE	:	DOCKET NO. ATL-L-
APPLICATION OF THE CITY OF	:	
LINWOOD, COUNTY OF ATLANTIC,	:	<u>CIVIL ACTION</u>
STATE OF NEW JERSEY	:	AFFORDABLE HOUSING
	:	PER DIRECTIVE #14-24
	:	
	:	COMPLAINT FOR DECLARATORY
	:	RELIEF PURSUANT TO DIRECTIVE
	:	#14-24

Declaratory Plaintiff, the City of Linwood, County of Atlantic, State of New Jersey, a Municipal Corporation of the State of New Jersey, with principal offices located at 400 Poplar Avenue, Linwood, New Jersey 08221, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive #14-24 of the Administrative Office of the Courts, alleges and says:

BACKGROUND

1. The City of Linwood is a Municipal Corporation of the State of New Jersey.
2. The Planning Board of the City of Linwood (hereinafter “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. (“MLUL”) and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan (“HEFSP”) of the City of Linwood’s Master Plan.

3. Through this Declaratory Judgment Complaint, the City of Linwood seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter the “Act”) and the Court, pursuant to Directive #14-24; (b) to have the Program and the Court approve the City of Linwood’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the City, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve a HEFSP to be adopted by the Planning Board and endorsed by the Council and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this Declaratory Judgment Complaint and binding resolution, to have the Program and the Court confirm the City of Linwood’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the City of Linwood receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT I

ESTABLISHMENT OF JURISDICTION UNDER P.L. 2024, C.2

1. The City of Linwood repeats and realleges each and every allegation as set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq.

3. Among other things, the Act abolished the Council on Affordable Housing (hereinafter “COAH”) and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the Administrative Office of the Courts (hereinafter, respectively, “Director” and “AOC”) to create a framework to process applications for a Compliance Certification.

4. On or about December 13, 2024, the Director issued a Directive #14-24, which among other things, required municipalities seeking a Compliance Certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution, confirming and establishing the City’s Fourth Round numbers as determined by the New Jersey Department of Community Affairs and as authorized under the Act, with an attached copy of said binding resolution to the Declaratory Judgment Complaint.

5. In order to achieve compliance, the City of Linwood adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this Declaratory Judgment Complaint as **Exhibit 1**.

6. Based on the foregoing, the City of Linwood has established the jurisdiction of the Program and the Court in regard to this Declaratory Judgment Complaint for a Compliance Certification as set forth hereinafter.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

- a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;
- c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations;
- d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program and commencing with the filing of this Complaint in accordance with the terms and conditions of the Act;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act, as well as all applicable Affordable Housing Regulations in the State of New Jersey.

COUNT II

DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE CITY OF LINWOOD

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

3. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

4. The DCA issued its report on October 18, 2024.

5. Pursuant to the October 18, 2024 report, the DCA calculated the City of Linwood's present and prospective affordable housing obligations as follows:

Present Need (Rehabilitation Obligation)	49
Fourth Round Prospective Need Obligation (2025-2035)	25

6. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

7. The City of Linwood adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as Exhibit 1 to this Declaratory Judgment Complaint.

8. The binding resolution maintains that the Present (“Rehabilitation”) Need Obligation of the City of Linwood is 49 and its Prospective (“New Construction”) Need Obligation is 25.

9. The City of Linwood seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as Exhibit 1 or the adjustment of those obligations consistent with the Act and the applicable Affordable Housing Regulations.

10. Pursuant to the binding resolution, the City of Linwood reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

11. Pursuant to the binding resolution, the City of Linwood specifically reserves the right to seek and obtain (1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (3) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (4) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (5) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (6)

any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

- a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;
- c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or all applicable Affordable Housing Regulations;
- d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

COUNT III

HOUSING ELEMENT AND FAIR SHARE PLAN

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, "HEFSP") must be prepared, adopted by the Planning Board and endorsed, by June 30, 2025.

3. The City of Linwood hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, (1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (3) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (4) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (5) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (6) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

- a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;
- c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate, and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulation;
- d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

COUNT IV

CONFIRMATION OF IMMUNITY

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

3. The City of Linwood has met the deadline for the adoption and filing of its binding resolution (and the filing of this Declaratory Judgment Complaint in accordance with Directive #14-24) not later than January 31, 2025, by adopting the binding resolution attached to this Declaratory Judgment Complaint as **Exhibit 1**, and has committed to the adoption of its HEFSP by June 30, 2025. Therefore, in accordance with the terms and conditions of the Act, the City is entitled to immunity from all exclusionary zoning lawsuits from the time the Complaint was filed, through June 30, 2035, once a Compliance Certification is issued or a Judgment of Compliance and Repose is granted.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the terms and conditions of the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;

c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate, and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations;

d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Joseph L. Youngblood, Jr., Esquire, attorney for the Declaratory Plaintiff, City of Linwood, is designated as trial counsel in the above captioned matter.

CERTIFICATION PURSUANT TO R. 4:5-1

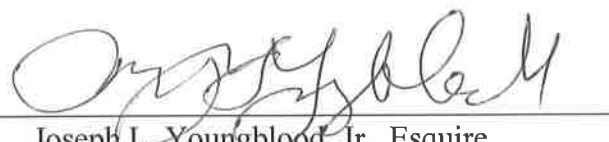
Joseph L. Youngblood, Jr., Esquire, hereby certifies as follows:

1. I am a member of the firm of Youngblood, Franklin & Sampoli, P.A., attorneys for the Declaratory Plaintiff, City of Linwood.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.

BY: _____


Joseph L. Youngblood, Jr., Esquire
Attorney for the Declaratory Plaintiff,
City of Linwood

Dated: January 30, 2025

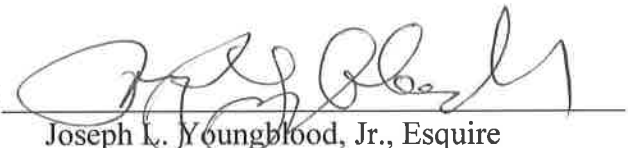
CERTIFICATION PURSUANT TO R. 1:38-7(b)

Joseph L. Youngblood, Jr., Esquire, hereby certifies as follows:

1. I am a member of the firm of Youngblood, Franklin & Sampoli, P.A., attorneys for the Declaratory Plaintiff, City of Linwood.
2. I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.

BY: 
Joseph L. Youngblood, Jr., Esquire
Attorney for the Declaratory Plaintiff,
City of Linwood

Dated: January 30, 2025

RESOLUTION NO. 33, 2025**A RESOLUTION SETTING 4TH ROUND AFFORDABLE HOUSING OBLIGATIONS
FOR THE CITY OF LINWOOD, COUNTY OF ATLANTIC**

WHEREAS, on March 20, 2024, the New Jersey Legislature adopted legislation known as P.L.2024, c.2, which set forth a procedure for calculating the 4th Round affordable housing obligation for municipalities, and which required this calculation to be adopted by the governing body of a municipality by way of Resolution; and

WHEREAS, N.J.S.A. 52:27D-304.1(a) allows the municipality to take into consideration the calculations published by the New Jersey Department of Community Affairs ("DCA") when determining the municipal Present Need and Prospective Need obligations and requires the basis for the municipality's determination to be set forth in a Resolution; and

WHEREAS, in October 2024, DCA released its proposed calculations for municipal Present Need and municipal Prospective Need and determined that Linwood City's Present Need is 49 units and its Prospective Need is 25 units; and

WHEREAS, the City's affordable housing professionals have reviewed the Present Need calculations and Prospective Need calculations published by the DCA appear to conform to the standards established under the Fair Housing Act, and have recommended that the City adopt these calculations as the City of Linwood's 4th Round affordable housing obligations; and

WHEREAS, the City of Linwood has determined that it is in the best interests of Linwood City to accept the Present Need and Prospective Need obligations as calculated by the DCA for the 4th Round.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Linwood, as follows:

1. The City hereby adopts the fourth-round methodology for fair share housing obligations determined by the New Jersey Department of Community Affairs which sets forth the City's present need is 49 units, and its prospective need is 25 units.
2. Youngblood, Franklin & Sampoli, P.A. is directed to file a Complaint for Declaratory Judgment and to file a copy of this Resolution with the Affordable Housing Alternative Dispute Resolution Program as required by the Amended FHA.
3. A certified copy of this Resolution shall be forwarded by the City Clerk within forty-eight (48) hours to the following:

(a) Department of Community Affairs

EXHIBIT 1

- (b) A copy shall be posted on the City's website
- (c) Jennifer Heller, PP, AICP, City Planner
- (d) Joseph L. Youngblood, Esq., City Solicitor

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

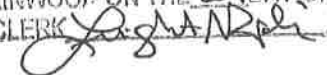
Certified to be a true copy of a Resolution adopted by the Common Council of the City of Linwood, County of Atlantic, State of New Jersey on the 29th day of January, 2025.

ATTEST:

CITY OF LINWOOD


Leigh Ann Napoli, RMC, Municipal Clerk


Darren Matik, Mayor

I CERTIFY THE FOREGOING TO BE A
CERTIFIED TRUE COPY OF A
Resolution 33, 2025 ADOPTED BY
THE MAYOR & COUNCIL OF THE CITY OF
LINWOOD ON THE 29 DAY OF Jan. 2025
CLERK 

Civil Case Information Statement

Case Details: ATLANTIC | Civil Part Docket# L-000206-25

Case Caption: IN THE MATTER OF LINWOOD CITY
Case Initiation Date: 01/30/2025
Attorney Name: JOSEPH L YOUNGBLOOD JR
Firm Name: YOUNGBLOOD FRANKLIN & SAMPOLI PA
Address: 1201 NEW RD STE 215
 LINWOOD NJ 08221
Phone: 6096016600
Name of Party: PLAINTIFF : City of Linwood
Name of Defendant's Primary Insurance Company
 (if known): None

Case Type: AFFORDABLE HOUSING
Document Type: Complaint
Jury Demand: NONE
Is this a professional malpractice case? NO
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Does this case involve claims related to COVID-19? NO
Are sexual abuse claims alleged by: City of Linwood? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/30/2025
 Dated

/s/ JOSEPH L YOUNGBLOOD JR
 Signed

APPENDIX B - Court Order setting the City's Fourth Round obligations

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE CITY OF
LINWOOD, ATLANTIC
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
ATLANTIC COUNTY
DOCKET NO. ATL-L-206-25

Civil Action

**AMENDED ORDER FIXING MUNICIPAL
OBLIGATIONS FOR “PRESENT NEED”
AND “PROSPECTIVE NEED” FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 30, 2025 (“DJ Complaint”) by the Petitioner, **CITY OF LINWOOD** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,¹ therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

¹ See https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **49** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **25** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND THE COURT, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

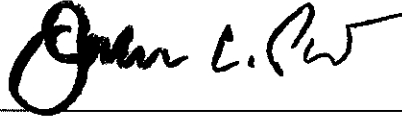
AND THE COURT, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

IT IS, THEREFORE, on this 5th day of **JUNE 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **49** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **25** affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:

A handwritten signature in black ink, appearing to read "John C. Porto", written over a horizontal line.

Hon. John C. Porto, P.J.Cv.

(X) Uncontested.

**APPENDIX C - Final Third Round Consent Order of Compliance and
Repose**

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Cornerstone Commerce Center
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Linwood, New Jersey 08221-1159
(609)601-6600 telephone/(609)601-6601 facsimile

Attorneys for: Petitioner, City of Linwood

IN THE MATTER OF THE
APPLICATION OF THE CITY OF
LINWOOD, a municipal corporation of the
State of New Jersey,

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

Docket No. L-1539-15

CIVIL ACTION
(Mount Laurel)

**CONSENT ORDER OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by Joseph L. Youngblood, Jr., Esq. of Youngblood, Franklin, Sampoli & Coombs, P.A., on behalf of the declaratory plaintiff, City of Linwood, and in the presence of Adam Gordon, Esq. of Fair Share Housing Center (hereinafter "FSHC"); and the Court being in receipt of the findings and recommendations of the Honorable Steven P. Perskie, J.S.C. (Ret'd.), the Court-appointed Special Master ("the Master") in this litigation;

AND the City having filed this Declaratory Judgment proceeding in which the Court has held several hearings, inclusive of a Fairness Hearing held on June 1, 2018, as a result of which the Court entered an Order of Fairness and Compliance on June 1, 2018;

AND the within litigation raises issues with regard to the compliance of the City with the requirements of the New Jersey Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.*, ("NJFHA"), and, more particularly, with the mandates of the New Jersey Supreme Court's decision of January 18, 2017, supplementing its ruling in the matter of *In Re: Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015)* (hereinafter *Mount Laurel*), which decision and prior rulings issued by the Supreme Court articulate what is known as "The Mount Laurel Doctrine";

AND the City and FSHC having negotiated a settlement agreement dated April 20, 2018 and executed April 23, 2018, (the "Settlement Agreement"), wherein the City has agreed, and committed to adopting the requisite Ordinances, including applicable zoning overlay Ordinances and municipal planning documents, subject to all procedural due process requirements set forth in the "New Jersey Municipal Land Use Law," *N.J.S.A. 40:55D-1 et seq.* (MLUL), and taking such other actions as are necessary to ensure that the City has removed all legal or regulatory impediments to the satisfaction of the City's fair share of affordable housing;

AND the Court having ordered or before August 28, 2018, now extended to August 30, 2018, the following actions shall be completed in fulfillment of the City's responsibilities hereunder:

- a. Implementation of all the terms contained in the Settlement Agreement;
- b. Adoption of the requisite amendments to the City's Affordable Housing and Zoning Ordinance, including applicable zoning overlay Ordinances, to implement the terms of the Settlement Agreement between FSHC and the City;
- c. Adoption of any amendments to the City's Affordable Housing Spending Plan, as may be necessary to accommodate the terms of the Settlement Agreement;
- d. Adoption of an amended Housing Element and Fair Share Plan by the City Planning Board and ratification, through the adoption of a Resolution, by the City's governing body consistent with the Settlement Agreement, the terms set forth at N.J.S.A. 40:55D-1 et. seq., and Mount Laurel IV;
- e. Submission of a Consent Order to the Court, the Master and Counsel for FSHC supported by a certification, along with all supporting documents, of the City's Affordable Housing Consultant that the aforesaid measures have been duly completed;

AND the City having adopted all requisite Resolutions and Ordinances and having taken all other necessary actions in order to fully comply with the terms and conditions of the Settlement Agreement and the Order of Fairness and Compliance;

And the City having provided to the Court proof of publication of the City's Public Notice regarding the "Compliance Hearing" dated July 30, 2018 and no objections having been received; and for good cause shown;

IT IS on this 29th day of August, 2018, ORDERED AND ADJUDGED as follows:

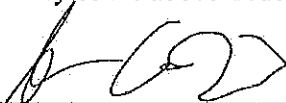
1. The Court finds that the City provided adequate notice to the public and all interested parties prior to the scheduled Compliance Hearing on August 30, 2018 and given that no objections were received and FSHC has consented to the terms of this Order it is appropriate to proceed by form of this order without necessity for holding a hearing;
2. The City has implemented all of the terms and conditions contained in the Settlement Agreement;
3. The City has adopted all of the requisite amendments to the City's Affordable Housing and Zoning Ordinances, including applicable zoning overlay Ordinances, to implement the terms of the Settlement Agreement between FSHC and the City
4. The City has adopted all necessary amendments to the City's Affordable Housing Spending Plan, as may be necessary to accommodate the terms of the Settlement Agreement;
5. The City Planning Board has adopted an amended Housing Element and Fair Share Plan which has been ratified, through the adoption of a Resolution, by the City's governing body consistent with the Settlement Agreement, the terms set forth at N.J.S.A. 40:55D-1 et seq., and Mount Laurel IV;
6. The City has submitted a Certification from Shirley Bishop, the City's Affordable Housing Consultant, confirming that all of said actions have been taken, along with copies of all adopted Resolutions, Ordinances and other related documents confirming that all required measures have been completed;
7. The City has submitted this Consent Order, confirming all actions taken, to the Court, the Master and to Counsel for FSHC.

IT IS FURTHER ORDERED AND ADJUDGED that the City of Linwood shall be granted a Declaratory Judgment of Compliance and Repose pursuant to East/West Venture v. Borough of Fort Lee and the Mount Laurel line of cases; and the Court declares the City of Linwood to be in compliance with its obligation to have provided and to provide a realistic opportunity for the development of housing affordable to low and moderate income households as defined in what are commonly known as the Mount Laurel cases, and in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., as amended. Entry of this Judgment of Compliance and Repose will bar through July 1, 2025 any claim that the City of Linwood is failing to provide a sufficient realistic opportunity for the development of housing for low and moderate income households other than enforcement of the terms of the Settlement Agreement or this Order.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all parties within seven (7) days of its receipt.

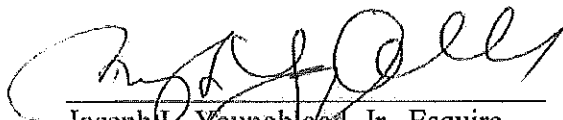

HONORABLE NELSON C. JOHNSON, J.S.C.

I hereby consent to the form
and entry of the above Order


Adam Gordon, Esquire
Attorney for Fair Share Housing Center

I hereby consent to the form

and entry of the above Order



Joseph L. Youngblood, Jr., Esquire
Attorney for City of Linwood

**APPENDIX D - Resolution Appointing Triad Associates as the
Administrative Agent**

RESOLUTION No. 38, 2025

A RESOLUTION AWARDING A NON-COMPETITIVE CONTRACT FOR PROFESSIONAL SERVICES TO TRIAD ASSOCIATES FOR ACCESSORY APARTMENT IMPLEMENTATION SERVICES FOR THE CITY OF LINWOOD

WHEREAS, there exists within the City of Linwood, New Jersey, the need to engage a professional for accessory apartment implementation services and technical assistance on Affordable Housing Requirements to comply with an Order of Fairness and Compliance; and

WHEREAS, the Local Public Contracts Law (N.J.S. 40A:11.1 et. seq.) requires that a Resolution authorizing the award of Contracts for "Professional Services" without competitive bids must be advertised;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Linwood that Triad Associates, 1301 W. Forest Grove Road, Vineland, NJ 08360, is hereby hired for an amount as set forth in the proposal submitted, which is attached hereto and incorporated herein;

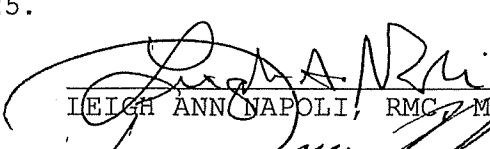
BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and are hereby duly authorized, empowered and directed to execute a Contract or Agreement with Triad Associates with regard to the aforesaid. This Contract is awarded without competitive bidding as a "Professional Service" under the provision of the Local Public Contracts Law because the Local Public Contracts Law permits professional services to be awarded without the necessity of competitive bidding.

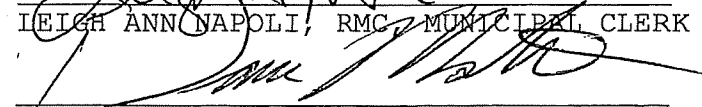
A copy of this Resolution shall be published in an official newspaper of the City of Linwood as required by law within ten (10) days of its passage.

BE IT FURTHER RESOLVED, that this Resolution is contingent upon a certification of availability of funds from the Chief Financial Officer of the City of Linwood.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 29th day of January, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 29th day of January, 2025.


LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK


DARREN MATIK, MAYOR

APPROVED: January 29, 2025

APPENDIX E - Accessory Apartment Ordinance

§ 277-40.1. Accessory apartments.

- A. Definition: "Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.
- B. Conditions for accessory apartments as conditionally permitted uses:
- (1) Conditions. Accessory apartments shall meet the following conditions:
- (a) The application submitted to the Construction Office shall include the following:
 - [1] Name and address of owner.
 - [2] Name, address, income verification of the proposed occupant of the accessory unit (if known).
 - [3] Floor plan of sketch.
 - [4] Current property survey.
 - (b) Accessory apartments shall be allowed in all residential zones.
 - (c) The minimum lot size and dimensional requirements shall be in accordance with the zone in which the property is located for accessory apartments constructed in new dwellings.
 - (d) Accessory apartments may be created within existing single-family residences or accessory buildings, provided there is no expansion of the existing structure's exterior outline.
 - (e) There shall be no more than one accessory apartment per single-family dwelling on each lot.
 - (f) The structures shall be in full compliance with all applicable health and construction codes.
 - (g) Construction of accessory apartments shall be in full compliance with all applicable environmental regulations including Linwood City's Stormwater Management Ordinance.¹
 - (h) Each accessory apartment shall be a minimum of 500 square feet. It may not occupy more than 35% of the total square footage of the house.
 - (i) Each accessory apartment shall have a minimum of two rooms and provide living, sleeping, cooking and bathroom facilities. Direct access to the outside or a hall with direct access to the outside shall be provided. The access door shall not alter the character of the exterior facade of the house.

1. Editor's Note: See Ch. 238, Stormwater Management.

- (j) The occupant shall meet the established income limitations of the low- or moderate-income guidelines for Linwood.
 - (k) The owner shall submit an affidavit of continuing use every two years to the Linwood City Clerk.
 - (l) Parking shall be consistent with the parking requirements of Linwood.
 - (m) Linwood acknowledges the need to provide its fair share of housing for low- and moderate-income households. Any property owner applying for an accessory apartment under this section shall affirmatively demonstrate that the accessory apartment is to be rented to and occupied by households meeting COAH's and UHAC's affordable housing criteria.
 - (n) Accessory apartment rents shall be consistent with COAH and UHAC rules. The following minimum subsidies shall be offered for the creation of an accessory apartment: \$35,000 for a very-low-income apartment, \$25,000 for a low-income apartment and \$20,000 for a moderate-income apartment.
 - (o) Ten-year affordability controls shall be imposed via a deed restriction or other instrument acceptable to the City Attorney and the court.
 - (p) In the event that the accessory apartment is located in a structure which is detached from the primary residence, the property owner shall explicitly affirm via deed restriction that the property may not be further subdivided to separate the accessory apartment and any associated land as a new building lot unless such subdivision can be accomplished in full accordance with Linwood City's density requirements, minimum setbacks, dimensional requirements, and all other applicable subdivision constraints.
 - (q) The property owner shall demonstrate that required deed restrictions are properly filed with the Atlantic County Clerk's Office prior to issuance of zoning or building permits.
 - (r) If, following completion of the ten-year affordability controls period, an accessory apartment constructed in accordance with this section of the Linwood City Zoning Ordinance is no longer subject to court requirements or restrictions, the apartment shall be considered a permitted conditional use subject to the remaining conditions established within this section.
 - (s) Accessory apartments shall be affirmatively marketed with random selection of the occupants.
- C. Illegal accessory apartments. An illegal accessory apartment shall be eligible for credit if the illegal accessory apartment meets the conditions in Subsection B above. The monetary contribution for a new accessory apartment is not required for an illegal accessory apartment to become eligible for credit. An existing occupant in an illegal accessory apartment may be permitted to remain in the apartment provided that when that occupant leaves the accessory apartment the apartment shall be affirmatively marketed with random selection of the occupants, and the ten-year affordability control period shall only begin upon reoccupancy

of the apartment after this marketing process.

APPENDIX F - Overlay Zoning Ordinance

§ 277-40.3. Affordable housing.¹

- A. Affordable Overlay Zone I. This zone shall be mixed-use overlay zoning, which will permit mixed-use development with the first floor required to be commercial, with up to two stories of residential over commercial.
- B. Affordable Overlay Zone II. This zone shall be mixed-use/residential zoning, which will permit either mixed-use development with the first floor commercial and up to two stories of residential over commercial or residential-only development with up to three stories of residential uses and no commercial use required.
- C. Both affordable overlay zones will allow development of up to 15 residential units per acre and up to a maximum of up to three stories to accommodate residential units.
- D. Approval shall be required for the erection or enlargement of all related accessory structures and prior to issuance of certificates of occupancy for a change of use. Permitted uses are as follows:
 - (1) Residential market rate and affordable dwelling units specifically including multifamily buildings shall be at the density, height and bulk prescribed herein or in Linwood's Zoning Ordinance and all amendments thereto. Affordable housing units shall be constructed, marketed and deed restricted in strict conformance to Linwood's Affordable Housing Ordinance,² Council on Affordable Housing regulations and all requirements contained within the Uniform Housing Affordability Controls as these documents may be amended, revised and supplemented.
 - (2) Commercial uses as may be permitted under Linwood's Zoning Ordinance and all amendments thereto.
- E. Storage permitted. No person in the affordable housing site zone shall store, place, deposit, or permit the continuation of storage, placement, or deposit of, upon any premises, any unregistered motor vehicle or any machinery, equipment, lumber, building materials or supplies or parts thereof; provided, however, that unless otherwise prohibited, it shall not be unlawful to store, place or deposit the foregoing items in a fully enclosed structure upon such premises. Nothing herein contained shall be deemed to authorize the erection of a structure or structures not otherwise authorized to be so erected. All other provisions of § 277-18, Storage restrictions, shall apply.
- F. Prohibited uses. All uses listed in § 277-11 are prohibited.
- G. Performance standards. All uses are subject to performance standards as set forth in Chapter 277, Zoning, and all other provisions contained in the Linwood Municipal Code.
- H. Site development plan approval. Site development plan approval, in accordance with Chapter 41, Land Use Procedures, shall be required prior to the issuance of construction permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

1. Editor's Note: See also § 277-40.2 and Ch. 78, Affordable Housing.

2. Editor's Note: See Ch. 78, Affordable Housing.

- I. The following area and bulk standards are applicable in the Affordable Overlay Zone I and in the Affordable Overlay Zone II:

- (1) Regulations: inclusionary developments.

Lot area	10,000 square feet
Lot frontage	100 feet
Lot depth	100 feet
Minimum required:	
Front yard	15 feet
Side yard	6 feet
Rear yard	15 feet
Parking	Not permitted in front yard
Maximum permitted building height	
Stories	3
Feet	41
Building coverage (%)	40

- (2) Additional regulations.

- (a) In recognition of the requirement to minimize or remove unnecessary development cost-generating requirements, the following minimum parking standards are applicable in the affordable overlay zones.

[1] Affordable dwelling unit: 1.25 parking spaces per dwelling.

[2] Market-rate dwelling unit: RSIS requirements apply.

- (b) All developments constructed within the affordable overlay zones shall be structured so that no less than 20% of the entire development are COAH creditworthy units if these units are to be offered for sale. A rental community shall be required to have a fifteen-percent affordable housing set-aside. No less than 50% of all COAH creditworthy units shall be affordable to low-income households, with 13% of all affordable units available to very-low-income family households. The balance can be affordable to moderate-income households.
- (c) Affordable housing in the zones shall be structured so no more than 20% of the units are studio or one-bedroom units and no fewer than 20% are three-bedroom units. Bedroom count for the remainder of the affordable units is at the discretion of the developer.
- (d) Density for the affordable overlay zones shall be no greater than 15 units per acre.
- (e) All affordable dwelling units shall be constructed and maintained in compliance

with the requirements of the New Jersey Council on Affordable Housing, and the Uniform Housing Affordability Controls before certificates of occupancy will be issued. The developer shall include all facilities required by law which are necessary to be maintained by a COAH certifiable rental or sales unit included as part of an inclusionary development so that COAH restrictions are legally enforceable. Furthermore, all such developments shall conform to the Development Fee Ordinance³ for Affordable Housing as set forth in the City of Linwood Municipal Code.

3. Editor's Note: See Ch. 124, Development Fees.

APPENDIX G - Mandatory Set Aside Ordinance

§ 277-40.2. Minimum set-aside of affordable housing units.¹

Any multifamily residential development or redevelopment that will contain five or more dwelling units shall comply with the following:

- A. A minimum of 15% of the total number of units shall be set aside as affordable housing units if the affordable units will be for rent. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- B. A minimum of 20% of the total number of units shall be set aside as affordable housing units if the affordable units will be for sale. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction of greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- C. The provisions of this section shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.
- D. At least half of all affordable units shall be affordable to low-income households, and the remainder may be affordable to moderate-income households. Within rental developments, at least 13% of the affordable units shall be affordable to very-low-income households, with the very-low-income units counted as part of the low-income requirement.

1. Editor's Note: See also § 277-40.3, Affordable housing.

APPENDIX H - Affordable Housing Ordinance

Chapter 78

AFFORDABLE HOUSING

§ 78-1.	Purpose.	§ 78-12.	Buyer income eligibility.
§ 78-2.	Definitions.	§ 78-13.	Limitations on indebtedness secured by ownership unit; subordination.
§ 78-3.	Applicability.		
§ 78-4.	Alternative living arrangements.	§ 78-14.	Capital improvements to ownership units.
§ 78-5.	Inclusionary zoning.	§ 78-15.	Control periods for restricted rental units.
§ 78-6.	Phasing schedule for inclusionary zoning.	§ 78-16.	Rent restrictions for rental units; leases.
§ 78-7.	New construction.	§ 78-17.	Tenant income eligibility.
§ 78-8.	Utilities.	§ 78-18.	Municipal housing liaison.
§ 78-9.	Occupancy standards.	§ 78-19.	Administrative agent.
§ 78-10.	Control periods for restricted ownership units and enforcement mechanisms.	§ 78-20.	Affirmative marketing requirements.
§ 78-11.	Price restrictions for restricted ownership units, homeowners' association fees and resale prices.	§ 78-21.	Enforcement of affordable housing regulations.
		§ 78-22.	Appeals.

[HISTORY: Adopted by the Common Council of the City of Linwood 8-8-2018 by Ord. No. 14-2018. Amendments noted where applicable.]

GENERAL REFERENCES

Development fees — See Ch. 124.

Zoning — See Ch. 277, § 277-40.3.

Rental property — See Ch. 212.

§ 78-1. Purpose.

The purpose of this chapter is to provide for and regulate affordable housing in the City.

§ 78-2. Definitions.

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

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

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The entity designated by the City to administer affordable units in accordance with this chapter, N.J.A.C. 5:93,¹ and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4,² and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable housing development, group homes and accessory apartments.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

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

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

ALTERNATIVE LIVING ARRANGEMENTS — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boardinghomes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

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

CERTIFIED HOUSEHOLD — A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH — The Council on Affordable Housing, as established by the New Jersey Fair Housing Act

1. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on October 16, 2016.

2. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on October 16, 2016.

(N.J.S.A. 52:27D-301 et seq.).

DCA — The State of New Jersey Department of Community Affairs.

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

DEVELOPER — Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to 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 use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

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 and load-bearing structural systems.

MARKET-RATE UNIT — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the court.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

MULTIFAMILY UNIT — A structure containing five or more dwelling units.

NONEXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

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

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted regional income limits published annually by COAH or a successor entity.

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. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26 et seq.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

VERY-LOW-INCOME UNIT — A restricted unit that is affordable to a very-low-income household.

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 purposes of a rehabilitation program.

§ 78-3. Applicability.

The provisions of this chapter shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Linwood pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

§ 78-4. Alternative living arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8³ and UHAC, with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the court.
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the court.
- C. Unless otherwise specified by agreement or ordinance, the service provider operating the alternative living arrangement shall be the administrative agent for the alternative living arrangement.

§ 78-5. Inclusionary zoning.

3. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 93, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 6, 1994, expired on October 16, 2016.

- A. To implement the fair share plan in a manner consistent with the terms of the settlement agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, overlay zoning shall be permitted on the following properties consistent with the provisions of the City of Linwood's Housing Element and Fair Share Plan and the terms of the settlement agreement.
- B. Linwood is constitutionally obligated to provide a realistic opportunity to comply with its affordable housing obligation. Creating two new affordable housing zones creates a realistic opportunity for the construction of affordable housing. The zones shall be as follows:
- (1) Affordable Housing Overlay Zone I: Mixed-Use Zoning; shall specifically be allowed on the following blocks and lots: Block 1, Lots 43.01 and 46.02; Block 6, Lot 24; and
 - (2) Affordable Housing Overlay Zone II: Mixed-Use/Residential Zoning; shall specifically be allowed on the following blocks and lots: Block 1, Lots 24, 29.01, 29.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39, 43.02, 46.01, 47 and 48; Block 6, Lots 25, 26, 36 and 40; Block 19, Lots 5, 6 and 7.

§ 78-6. Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

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

§ 78-7. New construction.

- A. Low/moderate split and bedroom distribution of affordable housing units:
- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units shall be very-low-income units (affordable to a household earning 30% or less of median income). The very-low-income units shall be counted as part of the required number of low-income units within the development.
 - (2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
 - (3) A maximum of 25% of the City's obligation may be met with age-restricted units. At least half of all affordable units in the City's plan shall be available to families.
 - (4) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - (5) Affordable developments that are not age restricted shall be structured in conjunction with

realistic market demands such that:

- (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (6) Affordable developments that are age restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7, and the following.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor; and
 - (b) An adaptable kitchen on the first floor; and
 - (c) An interior accessible route of travel on the first floor; and
 - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (e) If not all of the foregoing requirements in Subsection B(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection B(2)(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.), and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Linwood 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 person with disabilities 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 City of Linwood's 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 under Subsection B(2)(f)[2] above shall be used by the City of Linwood for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- [4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the City of Linwood for the conversion of adaptable to accessible entrances.
- [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible 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 City's Affordable Housing Trust Fund in care of the City Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Design:

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

D. Maximum rents and sales prices:

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the procedures approved by the court based on COAH's historical practice of establishing income limits.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low-income households, earning 30% or less of the regional median household income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant-paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

§ 78-8. Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary

development.

- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

§ 78-9. Occupancy standards.

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 78-10. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this chapter for a period of at least 30 years, until Linwood takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the restrictions set forth in this chapter, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 78-11. Price restrictions for restricted ownership units, homeowners' association fees and resale

prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowners' association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 78-12. Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the City Council, and subject to the court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- 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, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

§ 78-13. 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 first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

§ 78-14. Capital improvements to ownership units.

- A. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- 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. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-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 owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 78-15. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this chapter for a period of at least 30 years, until Linwood takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Atlantic. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this chapter despite the occurrence of any of the following events:
- (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 78-16. Rent restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this chapter.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this chapter.

§ 78-17. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a 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. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (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 the circumstances in

Subsection B(1) through (5) above with the administrative agent, who shall counsel the household on budgeting.

§ 78-18. Municipal housing liaison.

- A. The City of Linwood shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. Linwood shall adopt an ordinance creating the position of Municipal Housing Liaison. Linwood shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Linwood, including the following responsibilities which may not be contracted out to the administrative agent:
- (1) Serving as Linwood's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (2) Monitoring the status of all restricted units in Linwood's Fair Share Plan;
 - (3) Compiling, verifying and submitting annual monitoring reports as may be required by the court;
 - (4) Coordinating meetings with affordable housing providers and administrative agents, as needed; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the court, the City of Linwood shall designate one or more administrative agent(s) to administer newly constructed affordable units in accordance with UHAC. An operating manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the court. The operating manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the contracting administrative agent(s).

§ 78-19. Administrative agent.

The administrative agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. For resales, single-family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the administrative agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the administrative agent. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in N.J.S.A. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which include:

- A. Affirmative marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Linwood and the provisions of N.J.A.C. 5:80-26.15; and
- (2) 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.

B. Household certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) 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;
- (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) 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; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Linwood when referring households for certification to affordable units.

C. Affordability controls:

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Atlantic County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4) Communicating with lenders regarding foreclosures; and
- (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

E. Processing requests from unit owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this chapter;
- (2) 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;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) 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;
- (3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the City Council and the court, setting forth procedures for administering the affordability controls.

G. Additional responsibilities:

- (1) The administrative agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the court.
- (3) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 78-20. Affirmative marketing requirements.

- A. The City of Linwood shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State NAACP, the NAACP Atlantic City Branch, FSHC and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 6 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 6, comprised of Atlantic, Cape May, Cumberland and Salem Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the City of Linwood shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the administrative agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Preapplications shall be emailed or mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 78-21. 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, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-

income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) 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 adjudged 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 \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense; in the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Linwood Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for 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, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 78-22. Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this chapter shall be filed in writing with the court.

APPENDIX I - Development Fee Ordinance

Chapter 124

DEVELOPMENT FEES

§ 124-1.	Purpose.	§ 124-6.	Collection procedures.
§ 124-2.	Basic requirements.	§ 124-7.	Affordable Housing Trust Fund.
§ 124-3.	Definitions.	§ 124-8.	Use of funds.
§ 124-4.	Residential development fees.	§ 124-9.	Monitoring.
§ 124-5.	Nonresidential development fees.	§ 124-10.	Ongoing collection of fees.

[HISTORY: Adopted by the Common Council of the City of Linwood 12-12-2007 by Ord. No. 22-2007; amended in its entirety 8-8-2018 by Ord. No. 17-2018. Subsequent amendments noted where applicable.]

§ 124-1. Purpose.

- A. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- B. Pursuant to P.L. 2008, c. 46, § 8 (N.J.S.A. 52:27D-329.2), and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- C. This chapter establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, §§ 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7). Fees collected pursuant to this chapter shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a court-approved spending plan.

§ 124-2. Basic requirements.

- A. This chapter shall not be effective until approved by the court.
- B. The City of Linwood shall not spend development fees until the court has approved a plan for spending such fees (spending plan).

§ 124-3. Definitions.

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

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and

Fair Share Plan and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or COUNCIL — The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

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 property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

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

§ 124-4. Residential development fees.

A. Imposed fees.

- (1) Within the zoning districts allowing residential development, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development, provided that no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d variance") has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- (3) Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided that zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- (1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply,

a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.¹

§ 124-5. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2 1/2% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2 1/2% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2 1/2% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2 1/2% unless otherwise exempted below.
- (2) The fee of 2 1/2% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46,² as specified in the Form N-RDF, State of New Jersey Non-Residential Development Certification/Exemption Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46,³ shall be subject to it at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential 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 nonresidential development fees under these circumstances may be enforceable by the City of Linwood as a lien against the real property of the owner.

1. Editor's Note: Former Subsection B(3), regarding fees for improved structures, and (4), regarding fees for single-family residential structures, which immediately followed this subsection, was repealed 2-23-2023 by Ord. No. 3-2023.

2. Editor's Note: See N.J.S.A. 52:27D-329.1 et seq.

3. Editor's Note: See N.J.S.A. 52:27D-329.1 et seq.

- (6) Developers of municipal buildings and houses of worship shall be exempt from paying a development fee.

§ 124-6. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, State of New Jersey Non-Residential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee, and thereafter notify the developer of the amount of the fee.
- G. Should the City of Linwood fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. 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 the Board, collected fees shall be placed in an interest-bearing escrow account by the City of Linwood. 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, N.J.S.A. 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 nonresidential 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 City of Linwood. 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, N.J.S.A. 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.

§ 124-7. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the City of Linwood's affordable housing program. In the event of a failure by the City of Linwood to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the court; or for other good cause demonstrating the unapproved use(s) of funds, the court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the City of Linwood, or, if not practicable, then within the county or the housing region.
- C. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the trust fund. The court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- D. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the court.

§ 124-8. Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the court to address the City of Linwood's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the court and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the City of Linwood for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner may entitle the City of Linwood to bonus credits pursuant to N.J.A.C. 5:97-3.7.⁴
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The City of Linwood may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.⁵
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households,

4. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 97, Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning June 2, 2008, expired on June 2, 2015.

5. Editor's Note: In accordance with N.J.S.A. 52:14B-5.1b, Chapter 96, Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on June 2, 2008, expired on June 2, 2015.

monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.

§ 124-9. Monitoring.

The City of Linwood shall provide annual reporting of Affordable Housing Trust Fund activity to the State of 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. The reporting shall include an accounting of all 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. Such reporting shall include an accounting of development fees collected from residential and nonresidential developers, payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the City), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough-owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Linwood's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the spending plan approved by the court.

§ 124-10. Ongoing collection of fees.

The ability for the City of Linwood to impose, collect and expend development fees shall expire with its repose period covered by its judgment of compliance unless the City of Linwood has filed an adopted Housing Element and Fair Share Plan with the court or with a designated state administrative agency, has petitioned for a judgment of compliance from the court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance, and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan. If the City of Linwood fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to § 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). The City of Linwood shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the City of Linwood retroactively impose a development fee on such a development. The City of Linwood shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

APPENDIX J - Resolution Appointing the City's Municipal Housing Liaison

RESOLUTION No. 159, 2018

A RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON IN THE CITY OF
LINWOOD

WHEREAS, the City of Linwood, Atlantic County, has requested the Superior Court for a Judgment of Compliance and Repose of its adopted Housing Element and Fair Share Plan; and

WHEREAS, the City of Linwood's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

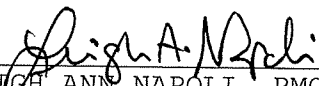
WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the City of Linwood is required to appoint a Municipal Housing Liaison for the administration of the City of Linwood's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the City of Linwood has amended its Municipal Code by Ordinance No. 15, 2008, to provide for the appointment of a Municipal Housing Liaison to administer the City of Linwood's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Linwood in the County of Atlantic, and the State of New Jersey that Leigh Ann Napoli is hereby appointed by the Governing Body of the City of Linwood as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with the Municipal Code of the City of Linwood and more specifically Ordinance No. 15, 2008.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 8th day of August, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 8th day of August, 2018.


LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK


RICHARD L. DEPAMPHILIS, III, MAYOR

APPROVED: August 8, 2018

