

and enables the construction of housing stock specifically geared towards age-restricted low and moderate-income households.

Additionally, in 2020, the Township amended its HEFSP to incorporate a site across the street from the subject property to include affordable housing as part of their third-round affordable housing obligation. The Plan proposes similar land uses within the vicinity and is consistent with goals of the Township in providing additional affordable housing to meet its next round obligation. The Plan proposes to create municipally sponsored 100% affordable rental housing for age-restricted households and will be consistent with the 2025-2035 HEFSP.

## **5.0 PROJECT REVIEW PROCESS AND AMENDMENTS TO THE PLAN**

### **BULK/VARIANCE AND DESIGN EXCEPTIONS**

All work is to be designed and constructed in accordance with the Township's normally acceptable engineering, planning, and/or architectural practices.

Variation from the development bulk requirements and design standards set forth by this redevelopment plan may be necessary in certain circumstances. In such an instance, the approving board may grant reasonable exceptions from bulk requirements and design standards if the designated redeveloper demonstrates that such design exceptions will not substantially impair the intent of the Redevelopment Plan Amendment, will not result in a substantial detriment to the public health, safety and welfare, and will meet the otherwise applicable criteria for the relief sought under the standards established by the Municipal Land Use Law.

## **6.0 IMPLEMENTATION OF THE PLAN**

### **6.1. FINANCIAL TOOLS AND TAX ABATEMENTS**

The Henderson Road Redevelopment Plan anticipates and supports the use of multiple financial tools as a means of achieving the goals and objectives of the Redevelopment Plan.

Pursuant to the court approved 2025-2035 Spending Plan, the Township will utilize money from the Affordable Housing Trust Fund to purchase the subject property for creation of age-restricted affordable housing. To facilitate and encourage the implementation of the Plan, the Township may employ other tools, such as, but not limited to, long-term tax exemptions and abatements pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. and/or pursuant to the New Jersey Housing and Mortgage Finance Agency laws, N.J.S.A. 55:14K-37. The power to

apply these tools is found in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., which permits a municipality to use alternate real estate tax structures to attain redevelopment objectives and to make redevelopment projects economically feasible and N.J.S.A. 55:14K-37, which permits a municipality to use alternate real estate tax structures where the housing project is financed or to be financed by the New Jersey Housing and Mortgage Finance Agency.

As provided by statute the establishment of redevelopment agreements and/or financial agreements providing for tax exemptions or abatements will include the payment of an “annual service charge”, also commonly known as a “Payment in Lieu of Taxes” or “Pilot”. The project and payment structure shall be subject to an agreement between the redeveloper and the Township in accordance with statutory standards and requirements.

The Redeveloper shall seek any additional funding through tax credits, a mortgage and other sources for financing.

## **6.2. REDEVELOPER’S OBLIGATIONS**

1. Potential redeveloper(s) will be required to submit the following for review and approval prior to the designation of a Redeveloper(s) and/or execution of any disposition instrument(s) for any land use parcel(s):
  - a. Provide a description of the project, and a discussion on how it fulfills goals and objectives of the Henderson Road Redevelopment Plan,
  - b. Provide a conceptual plan consistent with this Plan,
  - c. Present a timeline or schedule of the anticipated progression of work and time of completion. The schedule may include but not be limited to obtaining approval, project design, site plan approval, outside agency approval and construction,
  - d. Appropriate financial information to confirm that the Redeveloper has the financial capability to undertake and complete the project; and
  - e. Such other information that the Township may deem reasonable and necessary.
2. An updated estimate of the time of completion shall be required

to be set forth in a redevelopment agreement to be executed between a designated redeveloper and the Township (the “Redevelopment Agreement”).

3. The Redeveloper shall be responsible for obtaining all permits and approvals from approving boards and outside agencies, including building permits, prior to the commencement of construction.
4. Any approved site plan shall be consistent with the conceptual plan approved by the Township.
5. The Redeveloper(s) shall begin and complete the development, as approved, in accordance with the approved time schedule or within such additional time as may be provided in the Redevelopment Agreement.
6. The Redeveloper shall be responsible for all public improvements required for construction of the project, as required by an approving board or other outside agency. To the extent that the Township of South Brunswick is eligible for grant funds for public improvements necessary to facilitate the redevelopment project, the Township will consider taking a proactive approach toward securing those funds.
7. The Redeveloper(s) shall be responsible for all street improvements required by an approving board and/or outside agency, including but not limited to, pavement improvements/widening, curbing, drainage, sidewalks, grading, seeding and street trees, to the extent of the Redeveloper’s responsibility as specified in the Redeveloper’s Agreement.
8. The Redeveloper shall be responsible for all application and review fees incurred by the approving board by virtue of having to utilize outside consultants for any part of the application and approval process, permit fees, and all other fees associated with site plan/subdivision approval.

## **6.3. REDEVELOPER SELECTION**

The redevelopment plan presented herein is conceptual. Once the Redevelopment Plan is adopted, the municipality would enter an

agreement to purchase the site, at the fair market value of the rezoned property.

The municipality would then issue a Request for Qualification (RFQ) and select an affordable housing developer to enter into an agreement with for the development of the Project on the newly acquired municipally owned Site. Redevelopers will be given freedom in concept design and layout to present a plan which represents their creativity and architectural expression. Each redevelopment proposal will be evaluated by the Township as to the manner in which it achieves the objectives of the Henderson Road Redevelopment Plan.

This is a non-condemnation redevelopment zone and the property within the Plan Area shall be exempt from acquisition by condemnation or the exercise of the power of eminent domain by the municipality.

The owner of any property included in the Black Horse Lane Redevelopment zone is permitted by right to develop the property or contract for the development of the property consistent with the provisions of the Henderson Road Redevelopment Plan.

Prospective redevelopers shall be required to submit to their qualifications, financial resources, experience and design approach for the redevelopment of the Henderson Road Redevelopment Plan Area.

The Township will have the ability to reject the plan presented by the Redeveloper or his/her designee if the Township determines that the plan does not fulfill the objectives of the Henderson Road Redevelopment Plan. The OBRA shall state the reasons for rejection and the Redeveloper may revise the plan and resubmit.

This Plan Amendment may only be implemented by a redeveloper designated as such by the Township subject to the terms and provisions of a redevelopment agreement executed between such designated redevelopers and the Township.

#### **6.4. DISPLACEMENT AND RELOCATION OF FAMILIES**

The subject property is currently vacant and no residential or business relocation is anticipated in this Redevelopment Area.

#### **6.5. PROPERTY TO BE ACQUIRED**

There are no properties to be acquired within the Plan Area except for a right of way dedication for road widening purposes along Henderson Road frontage of the property, as deemed necessary by the South Brunswick Planning Board.

# **CONCEPTUAL PRELIMINARY PROFORMA**

**South Brunswick Township**

**Henderson Road Senior**

January 15, 2026

## Henderson Road Senior

Project Program				
	Description		Units	
	One Bedroom Apartments		117	
	Two Bedroom Apartments		8	
	Superintendent Apartment		1	
	Total Age Restricted Rental Units		126	
Development Costs (Uses)				
	Cost Category			Amount
	Land Acquisition	\$		3,200,000
	Construction Costs	\$		29,245,941
	Soft Costs	\$		982,500
	Contingency and Developer Fee	\$		6,478,242
	Financing and Working Capital	\$		1,834,304
	Escrows and Reserves	\$		764,559
	Marketing and Miscellaneous	\$		174,500
	Total Development Cost	\$		42,680,046
Sources of Funds				
	Sources			Amount
	Low Income Housing Tax Credit Equity	\$		12,234,776
	NJHMFA Affordable Housing Production Fund	\$		10,000,000
	NJHMFA Special Needs Housing Trust Fund	\$		750,000
	County HOME/Federal Home Loan Bank	\$		500,000
	Municipal Affordable Housing Trust Fund	\$		3,200,000
	Deferred Developer's Fee	\$		2,300,000
	Permanent Mortgage Financing	\$		13,695,269
	Total Sources	\$		42,680,046
Rental Income (Stabilized)				
	Units	AMI Level	Monthly Rent	Annual Rent
One Bedroom Apartments				
	16	30.00%	\$723	\$ 138,816
	43	50.00%	\$1,298	\$ 669,768
	58	60.00%	\$1,586	\$ 1,103,856
Two Bedroom Apartments				
	1	30.00%	\$849	\$ 10,188
	3	50.00%	\$1,540	\$ 55,440
	4	60.00%	\$1,885	\$ 90,480
Other Income				
	Description			Annual Amount
	Superintendent Unit	\$		-
	Fees and Laundry	\$		-
	Anticipated Rental Income	\$		2,068,548
Operating Expenses (Annual)				
	Category			Amount
	Administrative	\$		40,250
	Salaries	\$		143,000
	Maintenance	\$		97,200
	Utilities	\$		168,520
	Management Fees	\$		120,960
	Payment in Lieu of Taxes	\$		112,916
	Insurance	\$		69,300
	Replacement Reserve	\$		55,440
	Vacancy / Uncollected	\$		103,427
	Total Operating Expenses	\$		911,014
Cash Flow Summary				
	Item			Amount
	Net Operating Income (Before Debt Service)	\$		1,157,534
	Annual Mortgage Payment /Debt Service	\$		1,006,551
	Net Cash Flow	\$		150,983

*This pro forma is provided for conceptual and informational purposes only and is not intended to represent final construction costs, financing commitments, or underwriting conclusions.*

## KEY ASSUMPTIONS

- 1     Income Limits: Rental rates are based on 2025 HUD Area Median Income (AMI) limits for Middlesex County and are subject to annual adjustment.
- 2     Utility Allowances: Tenant rents are based on NJDCA Section 8, 2025 Utility Allowances.
- 3     Vacancy Rate: A stabilized vacancy and collection loss of approximately 5% of gross potential rent has been assumed.
- 4     PILOT: Payments in Lieu of Taxes are calculated at 6.28% of gross rental income, subject to approval and memorialization by municipal financial agreement.
- 5     Operating Expenses: Expenses are projected based on comparable senior LIHTC properties in central New Jersey and exclude extraordinary or non-recurring costs, subject to NJHMFA and investor underwriting.
- 6     Debt Service: Permanent mortgage debt is assumed to be fixed-rate and fully amortizing; based on NJHMFA published rates, final terms are subject to NJHMFA and investor underwriting.
- 7     Developer Fee: A portion of the developer fee is deferred and payable from available cash flow, subject to NJHMFA and investor requirements.

Appendix 14.  
Spend Plan



**South Brunswick Township**

**Affordable Housing Trust Fund**

**Affordable Housing Spending Plan**

January 14, 2026

DRAFT

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SOUTH BRUNSWICK TOWNSHIP

**Township Council**

Charlie Carley, Mayor  
Kenneth Bierman, Deputy Mayor,  
Patricia Germain, Councilwoman  
Archana Grover, Councilwoman  
Josephine Hochman, Councilwoman

**2026 Township Planning Board**

Aly Azhar, (Class II), Member  
Ken Bierman, (Class III), Member  
Charles Carley, Mayor's Designee, (Class I), Member  
Mike Dooley, (Class IV), Member  
Shalu Khanna, (Class IV), Member  
Jerome Lutin, (Class IV), Member  
Barry Nathanson, Vice Chairman, (Class IV), Member  
Paul Prodomo, Chairman, (Class IV), Member  
Emma Von Thun, (Class IV), Member  
Kevin Bifulco, Alternate No. 1  
Mario Jordan, Alternate No. 2

**Administrative and Professional Staff**

Tammy Scimone, Planning Board Secretary  
Paul Prodomo, Planning Board Chair  
Jeffrey R. Surenian, Township Affordable Housing Attorney  
Francis Womack, Municipal Attorney  
Thomas Collins, Planning Board Affordable Housing Attorney  
Benjamin Bucca, Jr, Planning Board Attorney  
James Campbell, Planning Director  
Bryan Bidlack, Township Manager  
Richard Hunt, PP, AICP, Affordable Housing Planner, Alaimo Group

## **INTRODUCTION**

The Township of South Brunswick has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (NJSA 40:55D-1 et seq.), the Fair Housing Act (NJSA 52:27D-301) and applicable law. A development fee ordinance that created a dedicated revenue source for affordable housing was approved by COAH in March of 1993, which establishes an Affordable Housing Trust Fund for the Township of South Brunswick. Furthermore, the Legislature adopted the Statewide nonresidential Development Fee Act, which created additional sources of monies for the Township's trust fund.

### **1. REVENUES FOR CERTIFICATION PERIOD**

As of July 1, 2024, South Brunswick Township has collected \$42,107,067.91 and expended \$28,121,583.63 over the life of the trust fund, resulting in a balance (CTM) of \$13,985,484.28. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account for the purposes of affordable housing. These funds will be spent in accordance with this fourth-round plan.

For the fourth round, it is estimated that \$19,445,897.80 will be collected from July 1, 2025, to June 30, 2035, including \$1,237,908.74 in interest. In total, it is anticipated that South Brunswick will have \$33,431,382.10 to spend during the fourth round, starting with a balance of \$13,985,484.28.

<b>Projected Fourth Round Affordable Housing Trust Fund Revenue</b>					
<b>Year</b>	<b>Source of Funds</b>				
	<b>Development Fees</b>	<b>Payments in Lieu of Construction</b>	<b>Other Funds (Foreclosure Settlement)</b>	<b>Interest</b>	<b>Total</b>
<b>Projected Beginning Balance</b>	\$13,985,484.28	\$0	\$0	\$538,441.14	\$14,523,925.42
<b>2025</b>	\$908,399.46	\$0	\$2,000	\$34,973.38	\$945,372.84
<b>2026</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2027</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2028</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2029</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2030</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2031</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2032</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2033</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2034</b>	\$1,816,798.91	\$0	\$4,000	\$69,946.76	\$1,890,745.67
<b>2035</b>	\$908,399.46	\$0	\$2,000	\$34,973.38	\$945,372.84
<b>Total:</b>	\$32,153,473.40	\$0	\$40,000.00	\$1,237,908.74	\$33,431,382.14

These funds shall be spent in accordance as follows.

To calculate a projection of revenue anticipated during the fourth round, South Brunswick Township is considering the following:

A. Development Fees

1. Residential and nonresidential projects which have had development fees imposed on them at the time of preliminary or final development approvals.
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates for occupancy.
3. Future development that is likely to occur based on historical rates of development
4. Homes that are subject to development fees based on 1.5% of the increase in equalized assessed value. Development fees collected in recent years have been influenced by nonresident fees for commercial projects coming online. The actual collection of fees has averaged \$1,816,798.91 per year since July 1, 2015, to June 30, 2025. The fee collections included \$1,101,643.28 from July 1, 2015, to December 31, 2015; \$1,207,467.37 in 2016; \$1,878,415.93 in 2017; \$1,903,759.77 in 2018; \$1,855,304.69 in 2019; \$710,268.71 in 2020; \$3,298,232.63 in 2021; \$1,624,495.24 in 2022; \$1,888,282.25 in 2023; and \$1,936,349.37 in 2024. The collection for the period from January 1, 2025, to June 30, 2025, totaled \$769,769.90. The Township will use an average collection of \$1,816,798.91 annually as a conservative estimate.

B. Payments in Lieu:

Actual and committed payments in lieu of construction from developers as follows:

The Township does not anticipate receiving any payments in lieu of construction in the fourth round.

C. Other Funding Sources

South Brunswick Township collects money from other sources, such as the REACH program affordable unit sales and loan repayments, etc. Funds from other sources may include, but are not limited to the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units. The lowest amount collected in the past four years was used as an annual estimate for the fourth round.

**D. Projected Interest:**

Interest on the projected revenue in the municipal affordable housing trust fund is based on the current average interest rate.

South Brunswick Township projects a total of \$19,445,897.80 in revenue to be collected between July 1<sup>st</sup> 2025 and June 30<sup>th</sup> 2035, consisting of \$1,237,908.74 of interest. All interest earned on the account shall be used only for the purpose of affordable housing.

**2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by South Brunswick Township.

**a. Collection of development fee revenues:**

All collection of development fee revenues will be consistent with the local regulations, which follow COAH administrative models for both residential and nonresidential developments and in accordance with NJSA 40:55D-8.1 through 8.7.

**b. Distribution for development fee revenues:**

The governing body reviews the request for consistency with the Spending Plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body's resolution in accordance with the court approved spending plan. Once a request is approved by resolution, the chief financial officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS****a. Rehabilitation and new construction programs and projects (NJAC 5:93-8.16)**

South Brunswick has an active and successful rehab program it utilized in the third round. It will continue to rely upon this successful program to address its newly assigned present need or rehab obligation of 132 for Round 4. The Township has set aside \$20,000 per unit, totaling \$2,640,000.00. The Township receives HUD Community Development Block Grant Funding. However, due to the instability of the federal program at this time, the Township has set aside sufficient funds in the Rehabilitation Program to fully fund the 132 units, with each unit receiving up to \$20,000.00.

**b. Housing Activity**

1. **Extension of Controls** – The Township seeks to satisfy 96 of its 1,470 Round 4 obligation by extending deed restrictions. The Township has already extended the deed restriction on six units in Mon Walk. It seeks to extend the deed restriction on an additional 90 units: 70 in Summerfield and 20 in Deans Pond. The Township will extend the deed restrictions in accordance with the new regulations the NJHMFA adopted on November 6, 2025 that became available to the public in December of 2025.

The Township will offer to compensate the 90 households for the cost of securing a Certificate of occupancy needed to sell their units and to comply with State laws on smoke /carbon monoxide detectors and to install a prescribed fire extinguisher. We estimate those costs could be \$10,000/unit. In addition, the Township will offer each of the 90 households \$5,000 to extend the deed restriction provided the household provides access to inspect the unit and otherwise cooperates with the Township's efforts to extend the deed restriction. Thus, the current estimate is \$15,000 per unit on average.

Based on these estimates, the Township is reserving \$1,350,000 of its trust fund for the extension of controls program

Property	Number of Units	Cost	Notes
Summerfield, Deans Pond Crossing	90	\$1,350,000	Estimated \$15,000 per unit
<b>Total</b>	90	\$1,350,000	

2. **Market to Affordable Program** – The Township includes Market-to-Affordable units to contribute to their obligation, with surplus units. The Township is proposing 34 Market-to-Affordable units. To date, the per-unit cost of the program has averaged approximately \$75,000 (including per-unit funds for potential renovations). A range of \$25,000 to \$125,000 per-unit is permitted. The Township has set aside \$100,000 per unit for thirty-four units for a total of \$3,400,000 for the Reach Market to Affordable Program.

The above-mentioned 34 units are a continuation of its successful REACH program comprised of the REACH New development (34). The REACH Comp 29 Fam, 1Sen development (30) are already constructed and will be counted for fourth round credit, however do not require financing in the fourth round.

3. **100% Affordable Housing** – The Township has included two 100 % affordable housing sites:
  - a. **210 & 220 Henderson Road (Block 90.04 Lots 12.012 and 13.042:** This site has been deemed an Area in Need of Redevelopment by the Township at Planning Board Recommendation. A draft Redevelopment Plan has been prepared for the property for the development of 126 age-restricted affordable units. The project will be 100% affordable. A number of similar dense

developments exist along Henderson Road, making the site suitable for this project. The Township will adopt the Redevelopment Plan shortly after it is approved. The Township has received the assessed values for the sites valued at \$3,200,000.00 for 2010 and 2020 Henderson Road properties. The Township will set aside \$3,200,000.00 to purchase the properties and will adjust these numbers when the Township receives the appraisals it ordered. Naturally, negotiations could result in a different number, and the Township will pay the ultimate price from its trust fund. In addition, the Township will provide a PILOT agreement and seed money for site development and may also cover closing costs if funding is sufficient. A total of \$4,200,000.00 has been set aside. More may be needed depending upon the success of the developer in securing funding from outside sources and the Township intends to use its trust fund money to facilitate the ability of these projects to provide affordable housing.

- b. 3674 Route 27 Redevelopment (Block 96.24, Lot 23.021):** This site has been designated as an Area in Need of Redevelopment by the Township Planning Board's recommendation. The Township will collaborate with South Brunswick Community Development Corporation to develop seventy-five (75) to eighty (80) affordable apartment units. The Township is currently working on a Redevelopment Plan to allow for this development. The property last sold on November 2, 2017, for \$1,630,000. It is anticipated that the cost of the property will at a minimum cost \$2,141,812.96 in 2005 dollars according to the Bureau of Labor Statistics CPI Inflation Calculator. It is anticipated that the new area in need of redevelopment will increase the cost to acquire the property. The Township will set aside \$4,500,000.00 to allow room for negotiation. In addition, the Township will provide a PILOT agreement and seed money for site development and may also cover closing costs if funding is sufficient. A total of \$4,500,000.00 has been set aside. More may be needed depending upon the success of the developer in securing funding from outside sources and the Township intends to use its trust fund money to facilitate the ability of these projects to provide affordable housing.
- c. Nonprofit Assistance Emerging Projects (70 units):** The Township has agreed to partner with nonprofits to construct an additional 70 units. The affordable units can be provided in multifamily developments or scattered sites. Since the projects are unknown and still under development at this time, the Township has utilized the 100% inclusionary cost average to estimate the setaside for the 70 units. The Township of South Brunswick will set aside \$100,000 for each unit for a total of \$7,000,000 for 70 units.
- d. Contingency:** The Township has set-aside a contingency of \$542,726.84 to cover any housing line overruns. This amount may also be used for Affordability Assistance overruns or emergent issue arising between July 1, 2025 to June 30, 2025.

**c. Affordability Assistance**

The Township will devote twenty percent (20%) of the revenues collected from the development fees shall be devoted to rendering units more affordable. Development fees collected to finance an RCA rehabilitation program, or a new construction project shall be exempt from this requirement. This requirement may be waived in whole or in part when the municipality demonstrates the ability to address the requirement of affordability assistance from another source.

<b>Affordability Assistance Calculation</b>		
Actual Fees through 7/1/2025		\$32,873,360.02
Actual interest earned through 7/1/2025	+	\$3,162,738.60
Other Income	+	\$5,998,017.79
Payments in Lieu of Construction	+	\$72,951.50
Projected Development Fees and Interest 7/1/2025 through 6/30/2035	+	\$18,167,989.10
Projected Interest	+	\$1,237,908.74
Projected Other Income	+	\$40,000.00
Projected Payments in Lieu of Construction	+	\$0.00
<b>Total</b>		<b>\$61,552,965.70</b>
20% Affordable Set aside		\$12,310,593.10
Less Affordable Housing Trust Fund Housing Rehabilitation Program Funds spent through 7/1/2025	-	\$458,887.90
Less Affordable Assist. Expenditures through 7/1/2025	-	\$10,329,538.16
Less Affordable Assist Project Setaside from 3 <sup>rd</sup> Round in amended Spending Plan (2024) <ul style="list-style-type: none"> <li>Dungarvin - \$140,000</li> <li>Wilson Farm - \$3,675,000</li> <li>RPM Phase I Mixed-Income - \$1,102,500</li> <li>RPM Phase II Family and Supportive Housing - \$1,080,000</li> </ul>	-	\$5,997,500.00
Affordable Assistance 7/1/2025 to 7/1/2035		(\$4,475,332.96)
Affordable Assistance for Very Low Income 2025 through 2035	<b>x 1/3</b>	(\$1,491,777.65)
Projected Affordable Assistance 7/1/2025 to 7/1/2035		\$1,050,000.00
Projected Affordable Assistance for Very Low Income 2025 through 2035		\$1,050,000.00

**Past Affordability Assistance Expenditures**

In the previous round, the Township of South Brunswick committed \$5,997,500.00 from its Affordable Housing Trust Fund to make projects more affordable. The dedicated funds were aimed at the following projects according to the 2021 third round spending plan:

- Dungarvin:
  - The Township will dedicate funds from the Affordable Housing Trust Fund to the non-profit organization Dungarvin New Jersey, Inc. for the acquisition, renovation and operation of one group home for very-low income qualified individuals with developmental disabilities. The project totals three bedrooms in one building.
- Wilson Farm:
  - The Township will convey approximately 12.74 acres through a Bargain and Sale Deed to Jaynar Construction or its designee for the creation of at least 127 and up to 210 age-restricted affordable rental units. In addition to the conveyance of land, the Township will dedicate at least \$2,222,500 (\$17,500/unit x 127 units) and up to \$3,675,000 (\$17,500/unit x 210 units) from the affordable housing trust fund to provide affordability assistance to Jaynar Construction or its designee.
- RPM Phase I Mixed Income:
  - The Township will provide affordability assistance to RPM for the creation of family affordable rental units, including very low-income family affordable rental units. The Township will dedicate at least \$1,102,500 from the affordable housing trust fund for this project.
- RPM Phase II Family and Supportive Housing:
  - The Township will provide affordability assistance to RPM for the creation of 60 family and special-needs affordable rental units, including 17 very low-income affordable rental units representing 28.3 percent of the total affordable units, far above the 13 percent statutory requirement. The Township will dedicate up to \$18,000 per unit, or a total of \$1,080,000, from the affordable housing trust fund for this project.

**Proposed Affordability Assistance Expenditures:**

Based on fees and interest collected to date and projected revenues, South Brunswick Township must dedicate at least \$1,679,963.67 from the affordable housing trust fund to make units more affordable. This includes \$559,987.89 to make units more affordable for households with



incomes at 30 percent or less of the regional median income. It may use a variety of vehicles to do this, including, but not limited to, the following:

- Emergency repair program;
- Down-payment assistance;
- Rental assistance;
- Security deposit assistance;
- Low interest loans;
- Assistance with homeowners' association or condominium fees and special assessments; and/or
- Converting low-income units to very low-income units or creating new very low-income units, etc.

The Township will collaborate with its affordable housing providers and administrator to expand outreach, ensuring that both current and new households of very low, low, and moderate incomes can access affordability assistance programs. Additionally, the Township will work with affordable housing providers to convert low-income units into very low-income units.

In the fourth round, South Brunswick is committing \$1,050,00.00 from its Affordable Housing Trust fund to provide affordability assistance and dedicated funds from the Affordable Housing Trust Fund for the following projects:

- **Nonprofit Assistance - \$1,050,000**
  - The Township has agreed to set aside \$1,050,000 for the creation of additional Group Home beds. A total of 30 new beds will be added at an average cost of \$35,000 per bed.
- **Other Affordability Assistance Programs - \$0**
  - The Township has set aside \$0 per year over ten years for a total of \$0 for affordable assistance programs. This is being kept as a place holder.

#### **d. Administrative Expenses**

The Fair Housing Act allows 20 percent of a trust fund to be used for administrative expenses;

(5) Not more than 20 percent of the revenues collected from development fees shall be expended on administration, in accordance with rules of the department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to paragraphs (1) and (2) of subsection f. of section 3 of P.L.2024, c. 2 (C.52:27D-304.1), and for expenses that are reasonably necessary for compliance with the processes of the program, including, but not limited to, the costs to the municipality of resolving a challenge under the program.

[NJSA 52:27D- 329.2- c. (5)]

The Township estimates that \$6,182,408.18 will be available from the affordable housing trust fund for administrative purposes through June 30 2035. The Township may charge the trust fund for those administrative expenses authorized by NJSA 52:27D- 329.2- c. (5) . Other permissible administrative expenses include the following:

1. Salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program; a new construction program; a housing element; and an affirmative marketing program.
2. Income qualification of households
3. Monitoring the turnover of sales and rental units
4. Compliance with court-ordered monitoring requirements
5. Township attorney, engineer, and planner fees related to plan preparation and implementation
6. Affirmative marketing
7. Income qualification of households
8. Administration of Township's affordable housing units

<b>Administrative Expense Calculation</b>		
Actual Fees and Interest through 7/1/2025		\$36,036,098.62
Projected Development Fees and Interest 7/1/2025 through 6/30/2035	+	\$19,445,897.84
Payments in Lieu of Construction and other Deposits through 12/31/2025	+	\$6,070,969.29
Less RCA Reimbursements to Township through 7/1/2025 per expiration of agreement	-	\$0
Total For Admin. Calculation to 12/31/2025		\$61,552,965.75
20% Maximum Admin Expense		\$12,310,593.15
Less Admin Paid through 7/1/2025		\$6,128,184.97
Available Admin 7/1/2025 through 6/30/2025		\$6,182,408.18

#### **4. EXPENDITURE SCHEDULE**

The Township of South Brunswick intends to use affordable Housing Trust Fund revenues for its rehabilitation program, affordability assistance, the creation of new affordable units, and administration expenses. As noted earlier in this spending plan, the Housing Trust Fund had a balance at the end of June 30, 2025, of \$13,985,484.28 and an estimated revenue of \$19,445,897.80 through the end of the fourth round on June 30, 2035, for a total of

\$33,441,382.10 available for eligible activities. Anticipated expenditure includes the following:

<b>Expenditure Schedule Calculation</b>		
1	Administration Range up to	\$6,688,276.42
2	Purchase of Extension of Controls	\$1,350,000.00
	Summerfield (69), Deans Pond Crossing (20), Mon Walk (6)	
3	Affordability Assistance	\$1,050,000.00
4	Housing Rehabilitation	\$2,640,000.00
	Total	\$11,728,276.42

## 5. EXCESS OR SHORTFALL OF FUNDS

In the event of any expected or unexpected shortfall of the anticipated revenues is insufficient to implement the plan, the Township of South Brunswick has committed to address such short falls with an intent to bond.

In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the fair share plan, or South Brunswick is reserving funds for affordable housing projects to meet a future affordable housing obligation, these excess funds will be used in accordance with the approved housing element and fair share plan.

## 6. BARRIER FREE ESCROW

The Township of South Brunswick does not have a Barrier Free Escrow account.

### SPENDING PLAN SUMMERY TABLE – add 3<sup>rd</sup> allocated, unspent line item

<b>Spending Plan Summery Table</b>	
<b>Balance as of 7/1/2025</b>	\$13,985,484.28
<b>Projected Revenue from 7/1/2025 through 6/30/2035</b>	\$19,445,897.80
<b>Development Fees</b>	\$18,167,989.10
<b>Payments in Lieu of Construction</b>	\$0.00
<b>Other Funds</b>	\$40,000.00
<b>Interest</b>	\$1,237,908.74
<b>TOTAL PROJECTED FUND BALANCE</b>	<b>\$33,441,382.10</b>
<b>Projected Expenditure through 7/1/2035</b>	
<b>Rehabilitation (132 units @ \$30,000 per unit)</b>	\$2,640,000.00
<b>Extension of Controls</b>	\$1,350,000.00
<b>Henderson Road - Block 90.04 Lots 12.012 and 13.042 (210 &amp; 220 Henderson Road), 100% Affordable Housing</b>	\$4,200,000.00

<b>3674 Route 27 Redevelopment (Block 96.24, Lot 23.021), 100% Affordable Housing</b>	\$4,500,000.00
<b>REACH (Market to Affordable – 64 units @ \$100,000 per unit</b>	\$3,400,000.00
<b>Affordability Assistance Item I Nonprofit Assistance: Additional Group Homes (30 bedrooms @ average of \$35,000 per bedroom)</b>	\$1,050,000.00
<b>Nonprofit Assistance Emerging Projects (70 units @ average of \$100,000 per unit)</b>	\$7,000,000.00
<b>Contingency</b>	\$3,118,973.92
<b>Administration</b>	\$6,182,408.18
<b>TOTAL PROJECTED EXPENDITURES</b>	\$33,441,382.10

Appendix 15.  
Affordable Housing Ordinance

## ***DIVISION 14. AFFORDABLE HOUSING ORDINANCE<sup>1</sup>***

### **Sec. 62-1990. Short title.**

This division of the "Code of the Township of South Brunswick" shall be known as the "Affordable Housing Ordinance of the Township of South Brunswick."

(Ord. No. 2020-13, § III, 6-23-2020)

### **Sec. 62-1991. Purpose.**

- (a) This division of the Township Code sets forth regulations regarding the very-low-, low-, and moderate-income housing units in the township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D- 329.1) such that the statutory requirement to provide very-low income units equal to 13 percent of affordable units approved and constructed after July 17, 2008, to be affordable households at 30 percent of the regional median income, overrides the UHAC requirement that ten percent of all low- and moderate-income units must be affordable at 35 percent of the regional median income, and the township's constitutional obligation to provide a fair share of affordable housing for very-low-, low-, and moderate-income households.
- (b) This division is intended to assure that very-low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This division shall apply to all inclusionary developments and 100 percent affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.
- (c) This division implements and incorporates the fair share plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

(Ord. No. 2020-13, § III, 6-23-2020)

### **Sec. 62-1992. Monitoring and reporting requirements.**

The Township of South Brunswick shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-required housing element and fair share plan:

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<sup>1</sup>Ord. No. 2020-13, § III, adopted June 23, 2020, repealed the former Division 14, §§ 62-1991—62-2004, and enacted a new Division 14 as set out herein. The former Division 14 pertained to similar subject matter and derived from Code 1988, § 175-139—175-147; Ord. No. 58-96, Sept. 17, 1996; Ord. No. 8-96, § 175-142.2, June 4, 1996; Ord. No. 5-03, § 175-140, March 4, 2003; Ord. No. 07-05, § I, Feb. 22, 2005; Ord. No. 29-05, § I, May 10, 2005; Ord. No. 55-05, § I, Sept. 13, 2005; Ord. No. 2007-76, § I, Nov. 27, 2007; Ord. No. 2009-30, § I, July 28, 2009; Ord. No. 2009-51, § I, Nov. 24, 2009; Ord. No. 2010-13, § I, May 11, 2010; Ord. No. 2015-3, § I, Feb. 24, 2015; Ord. No. 2016-14, § I, June 28, 2016.

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- (1) By each anniversary of the entering of the final judgment of repose, the township shall post on its website, with a copy provided to Fair Share Housing Center ("FSHC"), reporting of its affordable housing trust fund activity to the New Jersey Department of Community Affairs ("NJDCa"), Council on Affordable Housing ("COAH"), or other entity designated by the State of New Jersey and to the Special Master of the Superior Court using forms developed for this purpose by the NJDCa or COAH. The reporting shall include an accounting of all affordable housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
  - (2) By each anniversary of the entering of the final judgment of repose, the township shall post on its website, with a copy provided to FSHC, reporting of the status of all affordable housing activity within the municipality using forms previously developed for this purpose by COAH or any other forms endorsed by the special master.
  - (3) Within 30 days of the third anniversary of the entering of the final judgment of repose and every three years thereafter, the township will post on its website, with a copy provided to FSHC, a status report of the satisfaction of the township's very low-income housing requirements, including the family very low-income requirement.
  - (4) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the township will provide midpoint monitoring.
  - (5) As required by N.J.S.A. 52:27D-329.1, the township shall address its very low income requirements.

(Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-1993. Definitions.**

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

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

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

*Administrative agent* means the entity designated by the township to administer affordable units in accordance with this division, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26.1).

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

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

*Affordable* means, a sales price or rent level that is within the means of a very low-, low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, 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* means a development included in or approved pursuant to the housing element and fair share plan or otherwise intended to address the township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

*Affordable housing program(s)* means any mechanism in a municipal fair share plan prepared or implemented to address a municipality's fair share obligation.

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*Affordable unit* means 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.

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

*Age-restricted unit* means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent 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.

*Alternative living arrangement* means 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 boarding homes 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* means 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* means a household that has been certified by an administrative agent as a very-low, low-income household or moderate-income household.

*COAH of the council* means the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

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

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

*Development fee* means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.8.

*Equalized assessed value* means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).



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*Green building strategies* means 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.

*Inclusionary development* means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential 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* means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

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

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

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

*Median income* means the median income by household size for the applicable housing region, as adopted annually by the Township pursuant to this ordinance.

*Moderate-income household* means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

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

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

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

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

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

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

*Restricted unit* means a dwelling unit, whether a rental unit or 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* means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1, et seq.

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*Very low-income household* means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

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

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

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-1994. Applicability.**

- (a) The provisions of this division shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of South Brunswick pursuant to the township's court-approved housing element and fair share plan.
- (b) Moreover, this division shall apply to all developments that contain very-low-, low-and moderate-income housing units, including any currently unanticipated future developments that will provide very-low, low-and moderate-income housing units.
- (c) Projects receiving federal low income housing tax credit financing shall comply with the income and bedroom distribution requirements of UHAC at N.J.A.C. 5:80-26.3 (with the exception that the UHAC requirement for ten percent of the affordable units in rental projects being required to be at 35 percent of median income be modified as required by the statutory requirement, N.J.S.A. 52:27D-329.1 to 13 percent of affordable units in such projects shall be required to be at 30 percent of median income) and the length of the affordability controls applicable to such projects shall be not less than a 30 year compliance period plus a 15 year extended use period.

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-1995. Alternative living arrangements.**

- (a) The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 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 20-year operating contract with the department of human services, division of developmental disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the court.
- (c) The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

(Ord. No. 2020-13, § III, 6-23-2020)

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**Sec. 62-1996. Phasing schedule for inclusionary zoning.**

In inclusionary developments the following schedule shall be followed:

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

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-1997. 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 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.
- (2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.
- (3) 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 percent of the total low- and moderate-income units;
  - b. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
  - c. At least 20 percent 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.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. 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:*

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- (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 (b)(2)a. through (b)(2)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 paragraphs (b)(2)a. through (b)(2)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 South Brunswick Township has collected funds from the developer sufficient to make ten percent of the adaptable entrances in the development accessible:
      1. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
      2. To this end, the builder of restricted units shall deposit funds within the Township of South Brunswick's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent of the affordable units that have been constructed with adaptable entrances.
      3. The funds deposited under paragraph f.2. above shall be used by the Township of South Brunswick 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 Township of South Brunswick 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 meet 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 township's affordable housing trust fund in care of the township treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
    - g. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

(c) *Design:*

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- (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 most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the court and detailed herein.

"Regional income units shall be established for the region that the township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year."
  - (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
  - (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
  - (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different 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

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- 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 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate 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 rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-1998. 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 the Section 8 program.

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-1999. 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:

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- (1) Provide an occupant for each bedroom;
  - (2) Provide children of different sexes with separate bedrooms;
  - (3) Provide separate bedrooms for parents and children; and
  - (4) Prevent more than two persons from occupying a single bedroom.

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-2000. 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 division for a period of at least 30 years, until South Brunswick Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value 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 non-exempt sale after the unit's release from the restrictions set forth in this division, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this division 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.

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-2001. Price restrictions for restricted ownership units, homeowner association fees and resale prices.**

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

- (1) The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- (2) The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

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- (3) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, unless otherwise agreed to by the developer or association.
  - (4) 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.

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-2002. Buyer income eligibility.**

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) Notwithstanding the foregoing, the administrative agent may, upon approval by the township council, and subject to the court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the administrative agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low- income unit.
- (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 percent of the household's eligible monthly income.

(Ord. No. 2020-13, § III, 6-23-2020)

#### **Sec. 62-2003. 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 division, 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 percent 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).

(Ord. No. 2020-13, § III, 6-23-2020)



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**Sec. 62-2004. 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.

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-2005. 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 division for a period of at least 30 years, until South Brunswick Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (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 Middlesex. 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 division 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.

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-2006. 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.

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- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
  - (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this division.
  - (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 percent of the total number of dwelling units are restricted rental units in compliance with this division.

(Ord. No. 2020-13, § III, 6-23-2020)

### **Sec. 62-2007. Tenant income eligibility.**

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- (b) The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income 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 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - (1) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (3) The household is currently in substandard or overcrowded living conditions;
  - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (5) The household documents 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 (a)(1) through (b)(5) above with the administrative agent, who shall counsel the household on budgeting.

(Ord. No. 2020-13, § III, 6-23-2020)

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## **Sec. 62-2008. Municipal housing liaison.**

- (a) The Township of South Brunswick shall appoint a specific municipal employee to serve as a municipal housing liaison responsible for overseeing the township's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the township's affirmative marketing plan; fulfilling monitoring and reporting requirements; and supervising administrative agent(s). South Brunswick Township shall adopt this division which creates the position of municipal housing liaison and South Brunswick Township shall adopt a resolution which appoints the person to fulfill the position of 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 South Brunswick Township, including the following responsibilities which may not be contracted out to the administrative agent:
  - (1) Serving as South Brunswick Township'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 South Brunswick Township's Fair Share Plan;
  - (3) Compiling, verifying, submitting and posting all monitoring reports as required by the court and by this division;
  - (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 Township of South Brunswick shall designate one or more administrative agent(s) to administer and to affirmatively market the affordable units constructed in the township in accordance with UHAC and this division. 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 township 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 work of the administrative agent(s).

(Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-2009. Administrative agent.**

An administrative agent shall either a municipal employee of the township or an independent entity serving under contract to and reporting to the municipality. 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. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

- (1) *Affirmative marketing:*
  - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of South Brunswick and the provisions of N.J.A.C. 5:80-26.15; and

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- b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (2) *Household certification:*
- a. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate- income unit;
  - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of South Brunswick when referring households for certification to affordable units.
- (3) *Affordability controls:*
- a. 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;
  - b. 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;
  - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Middlesex County Register of Deeds or Middlesex County Clerk's office after the termination of the affordability controls for each restricted unit;
  - d. Communicating with lenders regarding foreclosures; and
  - e. Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) *Resales and rerentals:*
- a. Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
  - b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) *Processing requests from unit owners:*
- a. 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 division;
  - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such

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authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

- c. Notifying the municipality of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

(6) *Enforcement:*

- a. 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;
- b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
- c. Posting annually, in all rental properties (including two-family homes), 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;
- d. 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;
- e. Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund; and
- f. Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the township council and the court, setting forth procedures for administering the affordability controls.

(7) *Additional responsibilities:*

- a. The administrative agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- b. The administrative agent shall prepare monitoring reports for submission to the municipal housing liaison in time to meet the court-approved monitoring and reporting requirements.
- c. The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

(Ord. No. 2020-13, § III, 6-23-2020)

**Sec. 62-2010. Affirmative marketing requirements.**

- (a) The Township of South Brunswick 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. It is a continuing program that directs marketing activities toward housing region 3 and is required to be followed throughout the period of restriction.

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- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in housing region 3, comprised of Somerset, Hunterdon and Middlesex 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 Township of South Brunswick 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. Applications shall be 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.

(Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-2011. Enforcement of affordable housing regulations.**

- (a) Upon the occurrence of a breach of any of the regulations governing an 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 \$500.00 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;
    - 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 into the Township of South Brunswick Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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- c. 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

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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.

(Ord. No. 2020-13, § III, 6-23-2020)

### **Sec. 62-2012. Extension of restrictions.**

The township shall have the right to determine that the most desirable means of promoting an adequate supply of low- and moderate-income housing is to extend the period of restrictions on low- and moderate-income sales and rental housing units beyond the period set forth in subsection (a) under such circumstances and by such means as may be permitted by law. Nothing contained herein shall prohibit the township from extending any restrictions upon mutual agreement between the township and the then owner of the unit.

(Ord. No. 2020-13, § III, 6-23-2020)

### **Sec. 62-2013. Development fees.**

(a) *Purpose.*

- (1) 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 COAH's adoption of rules.
- (2) COAH was authorized by P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7) 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 COAH or a court of competent jurisdiction and have a COAH- or court-approved spending plan may retain fees collected from nonresidential development.
- (3) In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
- (4) This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

(b) *Basic requirements.*

- (1) COAH had previously approved ordinances adopting and amending Chapter XV, which established the township's affordable housing trust fund. The township's development fee ordinance which has been further amended and relocated to Section 15-24 of Chapter XV remains effective pursuant to the Superior Court's jurisdiction in accordance with N.J.A.C. 5:93.8.



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- (2) COAH approved the township's initial Spending Plan in 1997. At such time that the court approves the township's amended third round housing element and fair share plan and the amended third round spending plan, the township may begin spending development fees in conformance with N.J.A.C. 5:93-8 for the new 2018 plan activities.
- (c) *Residential development fees.*
- (1) *Imposed fees.*
- a. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one-and-one-half-percent percent of the equalized assessed value for residential development, provided no increased density is permitted.
  - b. 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 six percent 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. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one-and-one-half-percent percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
- (2) *Eligible exactions, ineligible exactions and exemptions for residential development.*
- a. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
  - b. 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.
  - c. In addition to the construction of new principal and/or accessory buildings, development fees shall be imposed and collected for the construction of additions or expansions to existing buildings, for the change or conversion of an existing building to accommodate a more intense use, and/or for the demolition and replacement of an existing building provided that:
    1. The development fee shall be calculated on the increase in the equalized assessed value of the improved building.
    2. No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster.
    3. No development fee shall be collected for the construction of an "accessory structure" which is not a "building" as these terms are defined in the South Brunswick Township "Land Development Ordinance."
- (d) *Nonresidential development fees.*

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(1) *Imposed fees.*

- a. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two-and-one-half-percent percent of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
- b. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two-and-one-half-percent percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- c. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two-and-one-half-percent percent 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.

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

- a. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent development fee, unless otherwise exempted below.
- b. The two-and-one-half-percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- c. 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, as specified in the Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
- d. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time 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.
- e. 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 township as a lien against the real property of the owner.

(e) *Collection procedures.*

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (2) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential 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

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- verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
  - (4) 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.
  - (5) 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.
  - (6) Within ten 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.
  - (7) Should South Brunswick fail to determine or notify the developer of the amount of the development fee within ten business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
  - (8) Fifty percent 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.
  - (9) Appeal of development fees.
    - a. A developer may challenge residential development fees imposed by filing a challenge with the county board of taxation. Pending a review and determination by the board, collected fees shall be placed in an interest-bearing escrow account by South Brunswick. Appeals from a determination of the board may be made to the tax court in accordance with the provisions of the State Uniform Tax 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.
    - b. 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 South Brunswick. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax 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.
- (f) *Affordable housing trust fund.*
- (1) 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.
  - (2) The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
    - a. Payments in lieu of on-site construction of affordable units;

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- b. Developer-contributed funds to make ten percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - c. Rental income from municipally operated units;
  - d. Repayments from affordable housing program loans;
  - e. Recapture funds;
  - f. Proceeds from the sale of affordable units; and
  - g. Any other funds collected in connection with South Brunswick's affordable housing program.
- (3) South Brunswick Township previously provided COAH with written authorization, in the form of three-party escrow agreements between the municipality, Bank of America, and COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. The superior court shall now have such jurisdiction to direct the disbursement of the township's trust funds per N.J.A.C. 5:93-8.
- (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the court.
- (g) *Use of funds.*
- (1) 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 township'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 pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.
- (2) Funds shall not be expended to reimburse South Brunswick for past housing activities.
- (3) At least 30 percent 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 percent or less of median income by region.
- a. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs.
  - b. Affordability assistance to households earning 30 percent 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 percent or less of median income.
  - c. 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.

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- d. South Brunswick 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. 5:93-8.16.
  - e. No more than 20 percent 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 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with any court-approved 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.
- (h) *Monitoring.*
- (1) By each anniversary of the final judgment of repose, the township shall provide reporting of its affordable housing trust fund activity to the New Jersey Department of Community Affairs ("NJDCA"), Council on Affordable Housing ("COAH"), or other entity designated by the State of New Jersey and to the Special Master of the Superior Court using forms developed for this purpose by the NJDCA or COAH. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- (i) *Ongoing collection of fees.*
- (1) The ability for South Brunswick to impose, collect and expend development fees shall expire with its court-issued judgment of compliance and repose unless South Brunswick has filed an adopted housing element and fair share plan with the court or other appropriate jurisdiction, has filed a declaratory judgment action, and has received the court's approval of its development fee ordinance. If South Brunswick fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance and repose, 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 Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). South Brunswick shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment compliance and repose, nor shall South Brunswick retroactively impose a development fee on such a development. South Brunswick shall not expend development fees after the expiration of its judgment compliance and repose.

(Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-2014. Appeals.**

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

(Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-2015. Administrative agent fees.**

- (a) "For-Sale" units.

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- (1) Initial sales. Developers and/or owners will be required to pay \$950.00 for each applicant certified for purchase and for which a contract for sale is signed, and a \$1,750.00 set-up fee per project. The set-up fee will include site visits to all properties, phasing, creation of database and internal hard files.
  - (2) Re-sales. Sellers of affordable units will be charged one and three-quarter percent of the sales price upon closing.
  - (3) Refinancing and home equity transactions. The owner of the affordable unit will be charged a \$150.00 fee at closing.
- (b) "Rental" units.
- (1) Initial rentals. Developers and/or owners will be required to pay \$300.00 for each applicant certified to rent an affordable unit and for which a lease is signed, and a \$1,750.00 set-up fee per project. The set-up fee will include site visits to all properties, creation of database and internal hard files, and communication with all tenants of any change in administrators.
  - (2) Re-rentals. Developers and/or owners will be required to pay \$75.00 for each applicant certified to rent an affordable unit and for which a lease is signed.
- (c) Developers and/or owners of projects consisting of 50 units or more may be subject to an adjustment of fees (reduced or increased) as determined by the township council.
- (d) Requests for hardship waivers of any fees due shall be reviewed and considered on a case-by-case basis. Any relief given shall be at the sole discretion of the township council. The council may, by resolution, delegate its authority to grant such waivers to the township manager, up to a maximum limit of \$5,000.00. Any request for a waiver in excess of \$5,000.00 may only be granted by a majority vote of the council.
- (Ord. No. 2020-13, § III, 6-23-2020)

## **Sec. 62-2016. Reserved mandatory affordable housing set-aside.**

- (a) A mandatory affordable housing set-aside requirement shall apply beginning with the effective date of this article to any residential development, including the residential portion of a mixed-use project, that consists of five or more new residential units at a density of six units per acre or higher, or equivalent, that results in whole or in part from:
  - (1) A municipal rezoning permitting multi-family residential development where not previously permitted; or
  - (2) Any use variance or a density variance increasing the permissible density at the site pursuant to N.J.S.A. 40:55D-70(d); or
  - (3) The adoption of a new redevelopment plan.
- (b) The affordable housing set-aside shall be 20 percent.
- (c) The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside:
  - (1) All subdivision and site plan approvals of qualifying development shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
  - (2) No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold.

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- (3) In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater. If the fractional amount is less than 0.5, the developer may round up to the nearest whole number, or, if the developer chooses to round down, the developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c) as updated by the Township through actual affordable housing pro formas.
  - (4) No developer may make a payment in lieu of constructing affordable units on-site, except for fractional units as set forth in paragraph (3) above.
  - (5) All affordable units created shall fully comply with the affordable housing requirements set forth in the Township's Fair Share Ordinance codified in the Township Code at Chapter 62, Article IV, Division 14, except as noted below to comply with the new affordable housing law enacted on March 20, 2024 at P.L. C.2.
    - a. Affordable units shall be subject to affordability controls of at least 30 years if the units are for sale, and at least 40 years if the units are for rent, from the date of initial occupancy. The affordability controls shall remain unless and until the municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least 30 years or at least 40 years, as applicable.
    - b. Affordable units shall be affirmatively marketed in accordance with UHAC and applicable law including posting of all affordable units on the New Jersey Housing Resource Center ("HRC") website in accordance with applicable law.
  - (d) Nothing in this section gives any developer the right to any such rezoning, variance, or other relief, or establishes any obligation on the part of the Township to grant such rezoning, variance, or other relief.
  - (e) Nothing in this section precludes the municipality from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this section.
  - (f) 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.
  - (g) This section shall not impose an obligation on non-residential development, including the non-residential portion of a mixed-use development subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
  - (h) This section does not apply to any specific sites or specific zones that were rezoned as part of the Township's court-approved Housing Element and Fair Share Plan, for which density and affordable housing set-aside requirements shall be governed by the specific standards approved.

(Ord. No. 2024-28, § I, 11-6-2024)

**Secs. 62-2017—62-2020. Reserved.**

Appendix 16.  
Resolution of Intent to Bond





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## Resolution

### Of the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, Stating Its Intent to Bond or Take Such Other Steps as May be Necessary to Fully Fund Its Housing Element and Fair Share Plan

**WHEREAS**, the New Jersey Department of Community Affairs (DCA) issued a report wherein it assigned the Township of South Brunswick a Present Need obligation of 132; and

**WHEREAS**, the Township entered into an agreement with Fair Share Housing Center, Inc. in September of 2024 wherein the parties agreed that the Township's prospective need for Round 4 was 1,070; and

**WHEREAS**, as a result of the foregoing, the Township has planned to address a Present Need (also known as a rehab obligation) of 132 and a prospective need for Rounds 1 through 3 and 1070 for Round 4; and

**WHEREAS**, the Township's professionals have prepared a Housing Element and Fair Share Plan (hereinafter "HEFSP") for the Township to address its Present need and Prospective need for all four housing cycles; and

**WHEREAS**, that HEFSP is on file and available for public inspection and scheduled for a vote by the South Brunswick Planning Board for January 28, 2025; and

**WHEREAS**, the HEFSP includes various compliance techniques to create affordable housing that, as structured, must be adequately funded such as the extensions of controls technique, the REACH market-to-affordable program, a 70-unit program to be implemented by a non-profit, Group Homes, and two 100% affordable developments (125 unit-Henderson Road, 80 unit - 3674 Rt 27); and

**WHEREAS**, the anticipated developers of the 125-unit Henderson Road project; the 80-unit 3674 RT 27 project; and the 70-unit nonprofit program are all experts in securing subsidies from non-municipal sources and will vigorously pursue those subsidies; and

**WHEREAS**, in addition, the Township of South Brunswick has received and anticipates receiving fees from residential and non-residential developers to be deposited into its trust fund, resulting in the availability of considerable monies to fund its affordable housing programs; and

**WHEREAS**, in addition, the Township of South Brunswick shall undertake diligent and good faith efforts to procure funding from outside sources, including County, State, and Federal to provide sufficient funding; and

**WHEREAS**, in the event there is a shortfall in funding despite all the measures described above, the Township of South Brunswick is committed to providing sufficient funds to address the shortfall through bonding or some other lawful means.

**NOW THEREFORE BE IT RESOLVED** on this 21<sup>st</sup> day of January, 2026, the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

The Township will fully implement its Housing Element and Fair Share Plan and to the extent that there is a shortfall in funding for any component of its Housing Element and Fair Share Plan, as approved, the Township shall bond or take such lawful measures as it deems appropriate to cover any shortfall in funding.

**BE IT FURTHER RESOLVED** that the Township of South Brunswick may repay debt through future collections of development fees, as such funds become available.

**BE IT FURTHER RESOLVED** that in the event of unanticipated expenses, the Township of South Brunswick reserves the right to find an alternative way to meet its constitutional obligations.

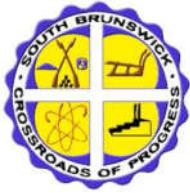
**BE IT FURTHER RESOLVED** that the Mayor and Township Clerk are hereby authorized and designated to execute any and all necessary documents in order to implement the intent of this Resolution.

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on January 21, 2026.

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Barbara Nyitrai, Township Clerk

Appendix 17.  
Resolution of Condemnation



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## Resolution

### **Resolution of the Governing Body of the Township of South Brunswick Authorizing and Committing To Condemn Various Properties for the Purpose of Providing Affordable Housing**

**WHEREAS**, the Governing Body of the Township of South Brunswick (“Township”) is empowered under the laws of the State of New Jersey to acquire real property by purchase or condemnation for public purposes (see N.J.S.A. 40A:12-1 et seq. and N.J.S.A. 20:3-1 et seq.); and

**WHEREAS**, the New Jersey Fair Housing Act explicitly provides that municipalities can use their power to condemn to provide affordable housing (N.J.S.A. 52:27D- 311a. (5)); and

**WHEREAS**, the Township wishes to rely on a compliance technique labeled “municipally sponsored projects” to create a realistic opportunity for satisfaction of a portion of its fair share; and

**WHEREAS**, to provide affordable housing through a municipally sponsored project, the municipality must demonstrate site control; and

**WHEREAS**, the Township is working amicably with the owners of two sites identified as follows to implement this technique:

- Block 90.04, Lot 12.012 and 13.042
- Block 96.24 Lot 23.201; and

**WHEREAS**, the Township wishes to demonstrate site control by committing to condemn the two sites in the unlikely event that the Township cannot acquire these properties amicably; and

**WHEREAS**, the Governing Body finds that the acquisition of these parcels is necessary and appropriate to further public purposes and municipal planning goals, including but not limited to implementing the Township’s affordable-housing obligations, ensuring long-term land-use control, and protecting the public interest; and

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of South Brunswick, County of Middlesex, State of New Jersey, as follows:

1. The Governing Body hereby commits to acquire the following sites by way of condemnation in the unlikely event the Township cannot acquire the properties amicably and in a timely fashion:
  - Block 90.04, Lot 12.012 and 13.042
  - Block 96.24 Lot 23.201; and
2. The Governing Body of the Township of South Brunswick finds and declares that the

acquisition of these parcels is required for public purposes, including but not limited to:

- facilitating compliance with the Township's affordable housing obligations,
- furthering municipal land-use and planning objectives,
- enabling municipal control to support realistic opportunities for affordable housing, and
- advancing other lawful governmental purposes.

3. The Township Attorney, Township Planner, Municipal Administrator, and Affordable Housing Counsel are hereby directed to take any and all steps required to acquire the subject properties through condemnation.

4. The Township's Chief Financial Officer is authorized to allocate or encumber such funds as may be necessary for appraisal costs, legal fees, expert services, and acquisition costs associated with these properties.

5. Notwithstanding the foregoing, if an amicable resolution can be achieved to acquire any of the parcels, nothing herein is intended to foreclose the Township from acquiring the land amicably and in lieu of through the condemnation process.

6. The Mayor, Township Clerk, Township Attorney, Affordable Housing Counsel, and other Township officials are authorized and directed to execute all documents, notices, and instruments, and to take all other steps necessary to effectuate the intent of this Resolution.

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on January 21, 2026.

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Barbara Nyitrai, Township Clerk