



HOUSING ELEMENT & FAIR SHARE PLAN

CITY OF PERTH AMBOY
MIDDLESEX COUNTY, NJ

Draft: November 18, 2020



POLICY
PLANNING
DESIGN



CITY OF PERTH AMBOY
THE HONORABLE MAYOR WILDA DIAZ



HOUSING ELEMENT AND FAIR SHARE PLAN

ADOPTED BY THE PLANNING BOARD _____

ENDORSED BY THE CITY COUNCIL _____

PREPARED BY:

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INTRODUCTION & EXECUTIVE SUMMARY

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I”, New Jersey municipalities have had a constitutional obligation to provide opportunities for creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable housing units that must be created or planned for creation in order to have “satisfied” their constitutional obligation, commonly referred to as their affordable housing obligation. The purpose of this Housing Element and Fair Share Plan (hereinafter the “Plan”) is to present how the City of Perth Amboy will satisfy its constitutional obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, with limited exceptions, must remain reserved for low and moderate income households for not less than 30 years and it is typically enforced by a 30 year deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits”, which provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in its affordable housing. This diversity means, for example, at least half of the units must be available to families and the remaining may be reserved for seniors and those with special needs, the affordable units must contain a mix of very low, low and moderate income units, and the affordable units must have a mix of one, two and three bedroom units.

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, voluntary compliance is heavily incentivized. Municipalities that do not successfully participate may be vulnerable to “builder’s remedy” litigation. A builder’s remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use or the residential density desired by the developer, provided a “substantial” percentage of the units are reserved for low and moderate income households. Perth Amboy seeks to avoid this possibility and has already taken substantial steps to do so.

As detailed in this Housing Plan, Perth Amboy City – like all New Jersey municipalities – has three components of its affordable housing obligation. Each component of the obligation is identified below.

- **Rehabilitation Obligation: 335 units**
The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Perth Amboy that are occupied by low- and moderate-income households.
- **Prior Round Obligation: 0 units**
The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. As a qualified urban aid municipality, Perth Amboy is not assigned a new construction affordable housing obligation, including the prior round obligation.



- Third Round Obligation: 0 units

The Third Round obligation can be defined as the cumulative 1999 through 2025 new construction affordable housing obligation. As a qualified urban aid municipality, Perth Amboy is not assigned a new construction affordable housing obligation, including the third round obligation.

The City satisfies the rehabilitation obligation through a City rehabilitation program that will be available to sale as well as rental units.

While the City does not have a prior round or third round obligation that must be satisfied, it nonetheless proposes the following strategies to advance quality and affordable housing in Perth Amboy:

- Improved Enforcement of Housing Quality

The City's existing housing and code enforcement programs will be improved to address overcrowding and ensure safe and quality housing conditions for City residents.

- Improved Rent Control

The City's existing rent control program will be improved for effectiveness and accessibility by City residents.

- Mandatory Set-aside Ordinance

This ordinance will ensure the set-aside of affordable housing when additional residential development potential is awarded to a site or district as part of a use variance, rezoning or redevelopment.

Adoption of this Housing Element and Fair Share Plan and complete implementation of the mechanisms described above to meet the affordable housing obligation is intended to yield a Judgment of Compliance and Order of Repose from Superior Court and protect the City from builder's remedy litigation through July 2025, the maximum time available.

AFFORDABLE HOUSING IN NEW JERSEY

In its landmark 1975 decision, now referred to as "Mount Laurel I", the NJ Supreme Court ruled that developing municipalities have a constitutional obligation to provide variety and choice of housing types affordable to low and moderate income households. In its 1983 "Mount Laurel II" decision, the NJ Supreme Court extended the regional fair share obligation to all municipalities with any "growth area" as designated in the State Development Guide Plan (NJDCG 1978) and determined that each municipality would have to establish its fair share obligation and provide zoning mechanisms to create a realistic opportunity for fulfillment of the fair share obligation. Mount Laurel II also gave developers, under appropriate circumstances, the opportunity to secure a builder's remedy. A builder's remedy is a litigation tool that grants a developer the right to develop what is typically a multi-family project on land that was not zoned to permit the use or the residential density desired by the developer, provided a "substantial"



percentage of the units are reserved for low and moderate income households. Perth Amboy seeks to avoid this possibility and has already taken substantial steps to do so.

In 1985, the Legislature enacted the Fair Housing Act in response to Mount Laurel II. The Fair Housing Act created the Council on Affordable Housing (hereinafter “COAH”) and an administrative alternative to compliance in a court proceeding. The Legislature conferred “primary jurisdiction” on COAH and charged COAH with promulgating regulations to establish housing regions, to estimate the state’s low- and moderate-income housing needs, set criteria and guidelines for municipalities to determine and satisfy their affordable housing obligation, and to create a process for the review and approval of appropriate housing elements and fair share plans. Approval of a municipal housing element and fair share plan by COAH is referred to as “substantive certification” and it provides protection from exclusionary zoning litigation during the time period which the housing element and fair share plan addresses (i.e. the round).

Activity From 1987 - 1993

COAH created the criteria and guidelines for municipalities to determine and address their respective affordable housing obligation. COAH originally established a formula for determining municipal affordable housing obligation for the six-year period between 1987 and 1993 (N.J.A.C. 5:92-1 et seq.), which became known as the “First Round.” These rules established the first round rehabilitation obligation (also referred to as the “present need”) and the first round new construction obligation.

The First Round formula was superseded by COAH regulations in 1994 (N.J.A.C. 5:93-1.1 et seq.). The 1994 regulations recalculated a portion of the first round 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 U.S. Census data. The regulations COAH adopted in 1994 to identify a municipality’s “cumulative” obligations for the First and Second Rounds are known as “the Second Round” regulations. Under regulations adopted for the Third Round, the obligation of municipalities to create new affordable housing for the First and Second Rounds is referred to as the “Prior Round” obligation. This Plan refers to the new construction obligation for the First and Second housing cycles as the “Prior Round” obligation.

Activity From 1999 - 2011

On December 20, 2004, COAH’s first version of the Third Round rules became effective some five years after the end of the Second Round in 1999. At that time, the Third Round was defined as the time from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The Third Round rules marked a significant departure from the methods utilized in COAH’s Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a “growth share” approach that linked the production of affordable housing to residential and non-residential development within a municipality.

However, on January 25, 2007, the New Jersey Appellate Court decision, *In re Adoption of N.J.A.C. 5:94 and 5:95*, 390 N.J. Super. 1, invalidated key elements of the first version of the Third Round rules, including



the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules within six months to address the deficiencies identified by the Court. COAH missed this deadline but did issue revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). COAH largely retained the growth share approach, but implemented several changes intended to create compliance with the 2007 Appellate Court decision. Additionally, the Third Round was expanded from 2014 to 2018.

Just as various parties challenged COAH's initial Third Round regulations, parties challenged COAH's 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision, *In re Adoption of N.J.A.C. 5:96 and 5:97*, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH's third round regulations. The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality but invalidated the regulations by which the agency assigned housing obligations in the Third Round. Specifically, the Appellate Division ruled that COAH could not allocate obligations through a "growth share" formula. Instead, COAH was directed to use similar methods that had been previously used in the First and Second rounds. The Court gave COAH five months to address its ruling and provide guidance on some aspects of municipal compliance.

In addition to the State agency activity and judicial decisions, the New Jersey Legislature has amended the Fair Housing Act in recent years. On July 17, 2008, Governor Corzine signed P.L. 2008, c. 46 (referred to as the "Roberts Bill", or "A500"), which amended the Fair Housing Act. Key provisions of the legislation included the following:

- It established a statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing;
- It eliminated new regional contribution agreements (hereinafter "RCAs") as a compliance technique available to municipalities whereby a municipality could transfer up to 50% of its fair share to a so called "receiving" municipality;
- It added a requirement that 13% of all affordable housing units and 13% of all similar units funded by the state's Balanced Housing Program and its Affordable Housing Trust Fund be restricted to very low-income households (30% or less of median income); and
- It added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection after its enactment, which commenced on the four-year anniversary of the law (July 17, 2012).

These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations. However, the requirement to expend development fees within four-years of their collection was determined in a Middlesex County Superior Court case to instead have the first four-year period to begin upon a Judgment of Repose, or upon a finding by the Court that the municipality is determined to be non-compliant (IMO of the Adoption of the Monroe City Housing Element and Fair Share Plan and Implementing Ordinances). Superior Courts around the State have been guided by this decision.



Activity from 2011 to the Present

COAH sought a stay from the NJ Supreme Court of the March 8, 2011 deadline that the Appellate Division imposed in its October 2010 decision for the agency to issue new Third Round housing rules. The NJ Supreme Court granted COAH's application for a stay and granted petitions and cross-petitions to all the various challenges to the Appellate Division's 2010 decision. The NJ Supreme Court heard oral argument on the various petitions and cross-petitions on November 14, 2012.

On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules. Subsequent delays in COAH's rule preparation and ensuing litigation led to the NJ Supreme Court, on March 14, 2014, setting forth a schedule for adoption.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, FSHC filed a motion in aid of litigant's rights with the NJ Supreme Court, and oral argument on that motion was heard on January 6, 2015.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion In Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1, aka "Mount Laurel IV"). This long-awaited decision provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication of this is that municipalities may no longer wait for COAH to adopt Third Round rules before preparing new Third Round housing elements and fair share plans and municipalities must now apply to the Courts, instead of COAH, if they wish to be protected from exclusionary zoning lawsuits. These trial judges, with the assistance of an appointed Special Master to the Court, review municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for towns to address their Third Round obligations, it did not assign those obligations. Instead, that must be done by the trial courts. However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the First and Second Round rules. Additionally, the Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and certain components of COAH's 2008 regulations that were specifically upheld (including but not limited to Redevelopment Bonuses), as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of Third Round housing elements and fair share plans. This plan is prepared in response to and in compliance with the March 10, 2015 NJ Supreme Court decision.

FSHC, the only public interest advocacy organization in New Jersey devoted exclusively to promoting the production of housing affordable to low and moderate income households, was permitted to serve as an interested party in every municipal Declaratory Judgment Action. In this role the organization calculated municipal affordable housing obligations and offered to settle with municipalities. Such settlements



addressed the municipal affordable housing obligation, compliance mechanisms and other terms intended to promote affordable housing production. Most municipalities that filed a Declaratory Judgment Action have found settlement with FSHC to be in their interest. The alternative to settlement with FSHC is conducting a trial in Superior Court to determine the municipal affordable housing obligation.

On January 17, 2017, the NJ Supreme Court rendered a decision, In Re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), that found that the “gap period,” defined as 1999-2015, generates an affordable housing obligation. This obligation requires an expanded definition of the municipal Present Need obligation to include low- and moderate-income households formed during the gap period; however, this component of the obligation is a new-construction obligation rather than a rehabilitation obligation.

Accordingly, the municipal affordable housing obligation is now composed of the following 4 parts:

- Present Need (rehabilitation),
- Prior Round (1987-1999, new construction),
- Gap Present Need (Third Round, 1999-2015, new construction), and
- Prospective Need (Third Round, 2015 to 2025, new construction).

While the structure of the obligation established through the City’s Settlement Agreement with FSHC is different from the findings of this recent Supreme Court decision (i.e. no redefined Present Need (1999-2015) and a Prospective Need specific to 2015-2025), the City’s obligation therein reflects that which was calculated for the entire third round period (1999-2025).

The Compliance Process

With the Supreme Court’s direction that such responsibility must transfer from COAH to Superior Court Trial Judges, municipalities may no longer seek substantive certification. Instead, municipalities now seek a Judgment of Compliance and an Order of Repose from Superior Court or the judicial equivalent of substantive certification. Doing so first requires that a Declaratory Judgment Action be filed in Superior Court.

Most municipalities who filed a Declaratory Judgment Action anticipate a settlement with FSHC. This means a Settlement Agreement, agreed to by both parties, sets forth the affordable housing obligation, compliance mechanisms and other terms intended to promote affordable housing production. This Settlement Agreement must be approved by Superior Court at a “Fairness Hearing” where the Settlement Agreement is evaluated to determine if it is fair to the interests of low and moderate income households¹.

¹ These settlement agreements are evaluated according to guidelines established by the Court in two principal cases: *Morris County Fair Housing Council v. Boonton Twp.* 197 N.J. Super. 359, 369-71 (Law Div. 1984) and *East/West Venture v. City of Fort Lee* 286 N.J. Super. 311 (App. Div. 1996). T



Perth Amboy has opted to adopt and endorse a housing element and fair share plan that reflects discussions with FSCH and the anticipated terms of the Settlement Agreement. This housing plan must be submitted to Superior Court for its review and approval. Should the Court find the plan acceptable, the municipality will receive a Judgment of Compliance and an Order of Repose and immunity from builder's remedy litigation for the remaining portion of the third round, which ends on July 1, 2025. This is similar to COAH's substantive certification. To maintain the validity of the Order, the municipality is required to conduct the necessary continued implementation and monitoring.

Aiding in the Judge's evaluation of the Settlement Agreement is a Special Master appointed by the Judge. This person serves at the direction of the Judge, including preparation of reports at each step in the process, and may serve as a mediator between the municipality, FSHC and/or other intervenors.

AFFORDABILITY REQUIREMENTS

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Perth Amboy is in COAH's Region 3, which includes Middlesex, Hunterdon and Somerset counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less than the regional median income.

The Uniform Housing Affordability Controls (hereinafter "UHAC") at N.J.A.C. 5:80-26.3(d) and (e) requires that the maximum rent for a qualified unit be affordable to households with incomes 60% or less than the median income for the region. The average rent must be affordable to households with incomes no greater than 52% of the median income. The maximum sale prices for affordable units must be affordable to households with incomes 70% or less than the median income. The average sale price must be affordable to a household with an income of 55% or less than the median income.

The regional median income is defined by COAH using the federal income limits established by Department of Housing and Urban Development (hereinafter "HUD") on an annual basis. In the spring of each year, HUD releases updated regional income limits, which COAH historically has reallocated to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. However, COAH has not published updated income limits or rent increases since 2014. As a result, the Affordable Housing Professionals of New Jersey ("AHPNJ") have published annual income limits the last several years.



The following tables are based on the 2020 affordable housing regional income limits for Region 3, prepared by Affordable Housing Professionals of New Jersey (AHPNJ).

2020 Income Limits for Region 3					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$83,650	\$95,600	\$107,550	\$119,500	\$129,060
Moderate	\$66,920	\$76,480	\$86,040	\$95,600	\$103,248
Low	\$41,825	\$47,800	\$53,775	\$59,750	\$64,530
Very Low	\$25,095	\$28,680	\$32,265	\$35,850	\$38,718

Source: 2020 Income Limits prepared by Affordable Housing Professionals of New Jersey, dated April 24, 2020.

The following tables provide illustrative sale prices and gross rents for 2020. The sample rents and sale prices are illustrative and are gross figures, which do not account for the specified utility allowances for rental units or for specific mortgage rates, taxes, etc. for sales units. As a note, rents have increased by a collective 5.1% in 2015, 2016 and 2017, by 2.2% in 2018, 2.6% in 2019, and by 1.9% in 2020.

Illustrative 2020 Affordable Gross Rents for Region3			
Household Income Levels (% of Median Income)	1-Bedroom Unit Rent	2-Bedroom Unit Rent	3-Bedroom Unit Rent
Moderate	\$1,356	\$1,627	\$1,880
Low	\$1,130	\$1,356	\$1,567
Very Low	\$678	\$814	\$941

Source: 2020 Affordable Housing Pricing Calculator: General Affordable Housing Rental Rate Calculators for New Construction prepared by Affordable Housing Professionals of New Jersey.

Illustrative 2020 Affordable Sales Prices for Region 3			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate	\$224,374	\$269,248	\$308,075
Low	\$160,267	\$192,321	\$222,237
Very Low	\$96,160	\$115,393	\$133,342

Source: 2020 Affordable Housing Pricing Calculator: General Affordable Housing Unit Sales Price Calculators for New Construction prepared by Affordable Housing Professionals of New Jersey.



PUBLIC ENGAGEMENT

The policies in this Housing Plan reflect the input received from City residents at a June 10th virtual public meeting, a July 29th in-person public meeting, and an online survey in both English and Spanish.

The public near uniformly represented concern over housing quality and enforcement in the City and expressed a need for improved access to affordable housing and improved access to services for those that are housing insecure. Common concerns expressed include the lack of safety in overcrowded units, lack of safety in poorly maintained units, lack of enforcement for the City's and State's rental housing laws, lack of enforcement of the City's rent control ordinance, and lack of available affordable housing (including long waiting lists for existing affordable units) and lack of financial and housing services for those that are homeless or housing insecure. However, underlying these concerns – as well as potential solutions – are concerns about school capacity, as well as traffic. City residents, while recognizing the need for affordable housing, expressed concerns about construction of new affordable housing (inclusionary and 100% affordable housing) due to the impact on the school system. A new high school with a maximum capacity of 3,300 student is under construction on Convery Boulevard; however, the public and City are concerned that this new school will simply alleviate current school overcrowding, rather than provide capacity for new students. The City will need to monitor the capacity of the school system once this new school is open in order to determine the ability to accommodate new students in the future. Regardless of the outcome of that analysis, the City can facilitate low and moderate income housing options for those with special needs and for seniors without concern for school capacity.

The survey was answered by a total of 690 residents, 621 residents answered the English version and 69 answered the Spanish version. The results of each survey are included in the Appendices to this Housing Plan.

HOUSING, DEMOGRAPHIC & EMPLOYMENT ANALYSIS

This Housing Plan includes the analysis of City housing, demographics and employment required by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-310) in the Appendices to this Plan. However, the key findings from this analysis are listed below.

1. Perth Amboy has an **average household size** of 3.50 persons in owner-occupied homes and 3.17 in renter-occupied homes. This is **larger** than the County at 2.94 and 2.66 persons, respectively, and the State at 2.83 and 2.55 persons, respectively. (2016)
2. The largest **age cohorts** in the City are 5-19 years (23%), 20-34 years (24%), and 35-54 years (28%). (2010)
3. 71% of the City's housing units are **renter occupied**. This is **nearly double** that for the County at 37% and the State at 36%. (2018)



4. Median **household income** in Perth Amboy is \$53,011 and the **median per capita income** is \$21,342. This is **lower** than Middlesex County at \$85,954 and \$38,140, respectively, and the State at \$79,363 and \$40,895, respectively. (2018)
5. 18.3% of the population is **below the poverty level**. This is **significantly higher** than the County at 8.5% and the State at 10.4%.
6. 52% of owner occupied units are occupied by a **cost-burdened household**; this increases to 55% for renter-occupied units. (2018)
7. **Median value of owner occupied units** is \$255,100. This is **lower** than Middlesex County at \$336,200 and \$327,900. (2018)
8. **Median gross rent** is \$1,304. This is **similar** to Middlesex County at \$1,432 and the State at \$1,295.
9. 8.1% of units are **overcrowded** (1.01 or more occupant per room). This is **nearly double** the County and more than double the State. (2018)
10. **Housing growth** in the City has slowed in the last decade, as compared to decades past. The number of new homes constructed is trending downward over the last decade, with exceptions (2012-2013 for example). (2018)
11. Approximately 65% of housing units in the City are **1 or 2 family homes**. (2018)
12. New Jersey Transportation Planning Authority (NJTPA) projects **2,171 new households (0.4%) between 2015 and 2045**. The percent change is not dissimilar to that for Middlesex County.

AFFORDABLE HOUSING & ADOPTED POLICY IN PERTH AMBOY

The City has not previously sought substantive certification from the Council on Affordable Housing or a Judgment of Repeal from Superior Court. The City last adopted a Housing Plan in 2003; however, this Housing Plan included no recommendations. Notwithstanding the fact that the City has never had a new construction obligation, the City has supported the creation of new affordable housing and rehabilitation of housing occupied by low and moderate income households by the Perth Amboy Housing Authority.

Existing & Planned Affordable Housing Units

Throughout the City's history more than 350 affordable dwelling units have been created by the Perth Amboy Housing Authority, including nearly 150 reserved for seniors and those with disabilities. This includes but is not limited to the King's Plaza development which includes 249 affordable rental units. Although the City is confident that these units have served, and many continue to serve low- and moderate-income households, it has insufficient documentation to demonstrate that they meet the



minimum requirements to be eligible for credit under COAH's rules. Additionally, the City has been the receiving community for Regional Contribution Agreements (hereinafter "RCA") for municipalities in Region 3, such as but not limited to the Townships of Cranbury, Lebanon, Montgomery and Warren, and the Borough of Peapack-Gladstone. While these RCA units provide important affordable housing for City residents, they meet the receiving community's affordable housing obligation, rather than the City's.

The City adopted a 10% affordable housing requirement for the Focus 2020 Gateway Redevelopment Area. The affordable units are required to be constructed on-site and integrated with the market rate units. It further limits senior affordable units to not more than 25% of the affordable units. Redevelopment of this area will provide not only revitalization and tax ratables for the City, but it may also alleviate demand for market rate and affordable housing. There is a total of 1,100 approved residential units in various stages of development through the City's Redevelopment Agency. Included in these residential developments is a 10% set-aside of the rental units for workforce housing units totaling at least 100 new affordable units. This redevelopment area is regulated in three redevelopment plans.

- The Waterfront Redevelopment Plan addresses approximately 256 acres along the Arthur Kill waterfront on the eastern boundary of the City. Permitted densities range widely; however, the highest density is 80 units per acre.
- The Gateway Area Redevelopment Plan addresses approximately 448 acres in the south and southwest area of the City. Permitted densities range widely; however, the highest density is 60 units per acre.
- The Northern Industrial Redevelopment Plan addresses approximately 364 acres located north of Route 440. The Redevelopment Plan is permits predominantly nonresidential land uses; however, residential uses are permitted in limited areas at a density of 50 units an acre.

Adopted Policy

The City's 2003 Master Plan includes several policies supportive of improving housing quality and affordability for residents. This Master Plan includes the following *Residential Land Use objectives* that are supportive of this Plan's housing policies:

- *Develop and implement home ownership programs as a method to promote stable neighborhoods and increase community pride.*
- *Ensure that the City's existing housing is well maintained and up to code.*
- *Rehabilitate the City's neighborhoods through state and federal programs and public/private partnerships to prevent deterioration and blight.*

In addition to the City's Master Plan, the City Department of Economic and Community Development administers the City's Community Development Block Grant (hereinafter "CDBG") program and the HOME Investment Partnership Program that provide a variety of programs in the City. The current Action



Plan, the *2019-2020 Annual Action Plan*, identifies the following three funding objectives that guides the policies therein:

- *Provide a suitable living environment*
- *Provide decent affordable housing; or*
- *Create or expand economic opportunities*

Additionally, the *2019-2020 Annual Action Plan* identifies the following City housing goals:

- *Encouraging and maintaining homeownership.*
- *Maintaining and improving the condition of our current housing stock.*
- *Addressing the demand for affordable housing in ways that will not increase further demand on Perth Amboy's overcrowded school system.*
- *Providing stability for renters through tenant based rental assistance including emergency, short-term assistance in response to COVID-19*

CDBG funds, pursuant to the *2019-2020 Annual Action Plan*, are used to support the following City programs and projects:

- City of Perth Amboy Office on Aging Senior Service Center;
- Recreational Seasonal programming;
- Summer Youth Employment;
- Puerto Rican Association for Human Development Hispanic Senior Services Center;
- Perth Amboy Housing Authority Housing and Credit Counseling Program;
- Raritan Bay Area YMCA-Homelessness Prevention Day Services;
- Jewish Renaissance Foundation Alternative Education Institute;
- City's 2020 Census Education and Promotional Campaign;
- City's Neighborhood Preservation Program; and
- City's park improvements as well as improvements to roads and sidewalks.

HOME Investment Partnership Program funds, pursuant to the *2019-2020 Annual Action Plan*, are used to support the following City programs and projects:

- Home Improvements Program;
- The Puerto Rican Association Tennant Based Rental Assistance; and
- City's First-Time Homebuyers Program.



The City's existing policy for affordable and quality housing has historically centered on enforcing housing quality standards, rent control, and support for the Housing Authority, as well as fulfilling RCA commitments. Notwithstanding, the City struggles with providing adequate funding and staffing and program supports for enforcement of housing quality standards and rent control. This Housing Plan will serve as a vehicle for renewed focus and support for these programs. Previous efforts to increase development potential and impose an affordable housing set-aside has been met with concern over the impact of the new development on municipal services and school capacity.

Community Action for Safe Housing

The City of Perth Amboy partnered with the Raritan Bay Area YMCA and the Edward J. Bloustein School of Planning and Public Policy at Rutgers University on a grant funded project titled, "Community Action for Safe Housing". The resulting Report includes analysis and recommendations aimed at addressing the causes and impact of substandard housing in Perth Amboy. Unlike this Housing Plan, which is adopted by the Planning Board and constitutes an element of the master plan, the "Community Action for Safe Housing" Report address municipal operations including Council and department actions and funding, as well as land use issues that are within the jurisdiction of the Planning Board. The report provides further analysis and policy support for the recommendations in this Housing Plan, with many of the recommendations therein also included in this Housing Plan. The following is a summary of the recommended actions and best practices from the "Community Action for Safe Housing" Report.

- *Response Action: An aggressive outreach and education initiative on housing codes and safety, aimed at the immigrant population, landlords, older homeowners, etc.*
 - *Implement a partnership between City housing office(s) and non-profit legal services*
 - *Establish a Mayoral Advisory Board or Immigrant Affairs Office*
 - *Utilize public schools and school children as a means to conduct outreach to residents*
 - *Utilize places of worship to engage City residents*
 - *Establish a community-led outreach program targeting the senior population*
 - *Employ an Office of/Program for Landlord and Tenant Relations*
- *Response Action: City code allowing for the creation, inspection, and permitting of attic and/or basement via Accessory Dwelling Units. // Construct additional housing in the City for the working-class residents already present and currently living in overcrowding conditions.*
 - *Adopt Accessory Dwelling Unit Ordinance*
- *Response Action: A rental registration/fee, increase fines for code violations, and permit accessory dwelling units to increase tax revenue. Use this money to expand the housing inspection program and personnel.*



- *Utilize (or customize) the Landlord Identity Registration Form prescribed by the NJ Department of Community Affairs*
- *Raise the fees associated with landlord identity/rental registration, and rental inspection to be more in line with neighboring communities*

The full “Community Action for Safe Housing” Report can be found in the Appendices to the Housing Plan.

CONSIDERATION OF LANDS MOST APPROPRIATE FOR AFFORDABLE HOUSING

Pursuant to the NJ Fair Housing Act at N.J.S.A. 52:27D-310.f, a municipal housing element shall contain “consideration of the lands that are most appropriate for construction for low and moderate income housing.” No developers or property owners have come forward as part of this process to offer their land for use as affordable housing. Notwithstanding, the City reviewed land use and zoning throughout its boundaries to identify the most appropriate locations for, and the best methods to promote, affordable housing.

Perth Amboy is a fully built-out, urban municipality where affordable housing has the best chance of being created through redevelopment or rezoning with an inclusionary set-aside requirement, infill development, and/or a market-to-affordable program. This Housing Plan uses a mandatory set-aside ordinance to create inclusionary housing where opportunities arise.

Imposition of an affordable housing set-aside must be coupled with an incentive, referred to as a compensatory benefit. This principle is supported in the decades of case law that define the Mount Laurel Doctrine. In fact, this principle was directly addressed by the 2007 Appellate Division decision addressing COAH’s 2004 rules which were invalidated for lack of a compensatory benefit . This case addresses the compensatory benefit in the following conclusory statements:

We conclude that the Mount Laurel doctrine, as articulated in Mount Laurel II and Toll Bros., and as codified by the FHA, requires municipalities to provide incentives to developers to construct affordable housing. Land use ordinances requiring all developers to provide some affordable housing conflict with the essence of the Mount Laurel doctrine, which requires that municipal land use ordinances create a realistic opportunity.

Compensatory benefits are, by far, most often applied in the form of increased permitted maximum residential density or other forms of increased development intensity such as increased permitted maximum building height and/or floor area ratio. The increased development potential provides a clear and direct financial incentive to produce affordable housing. It is required that the compensatory benefit be based not on the existing development, but on the zoning. Simply, no compensatory benefit is granted unless the permitted development potential (rather than existing development) is increased. Notwithstanding, other forms of compensatory benefit may be appropriate in limited circumstances, such



as tax abatement and relief of other limiting development factors (permitted use, building cover, etc.). Note that as the affordable housing set-aside increases, so too must the compensatory benefit.

At this time, the City's long standing concerns regarding provision of adequately funded municipal services and school capacity limitations are in conflict with granting additional development potential in order to impose an affordable housing set-aside. As a result, the City is relying on the mandatory set-aside ordinance to capture affordable housing opportunities that may arise in the future in appropriate locations.

PERTH AMBOY' AFFORDABLE HOUSING OBLIGATION

Since the January 2017 New Jersey Supreme Court ruling on the "gap period", housing plans must address four main components of a municipality's affordable housing obligation. These include the Rehabilitation Obligation to improve substandard housing occupied by low- and moderate-income households, the Prior Round for new construction from 1987 to 1999, the Gap Period Present Need for new construction from 1999 to 2015, and the Prospective Need, or the Third Round's future new construction demand from 2015 to 2025. In this housing plan, the Gap Period Present Need and Prospective Need are collectively referred to as the Third Round Obligation.

The source of City's affordable housing obligation is the methodology determined by the Hon. Judge Jacobson, A.J.S.C. in her March 2018 decision, In the Matter of the Application of the Municipality of Princeton, Docket. No. MER-L-1550-15 (Law Div., Mercer Cty., March 29, 2018). (hereinafter referred to as the "Jacobson Methodology"). The obligation was extrapolated and applied to all New Jersey municipalities by Econsult Solutions, in "Statewide and Municipal Obligations Under Jacobson Opinion".

Perth Amboy has only a rehabilitation obligation; no new construction obligation is assigned. As set forth in COAH's substantive rules (N.J.A.C. 5:93-2.19), qualified urban aid municipalities, such as Perth Amboy, are not assigned a new construction obligation². COAH's substantive rules exclude municipalities with higher-than-average proportions of low and moderate income households living in fiscally/economically distressed areas from new construction affordable housing obligations³. To be designated a qualified urban aid municipality, it must satisfy at least one of three criteria: (1) a level of existing LMI housing deficiency in excess of the average LMI deficiency in its region, (2) a population density in excess of 10,000

² More specifically, N.J.A.C. 5:93-2.19 states "Selected municipalities receiving state aid (urban aid cities) pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) that are exempt from the distribution of reallocated present need and prospective need as described in N.J.A.C.5:93-2.3"

³ To be a qualified urban aid municipality, it must satisfy at least one of three criteria: (1) a level of existing low and moderate income housing deficiency in excess of the average low and moderate income deficiency in its region, (2) a population density in excess of 10,000 persons per square mile, or (3) a population density between 6,000 and 10,000 persons per square mile and less than 5 percent vacant (non-farm) land measured by the average of the percentage of parcels and valuation in the municipality.



persons per square mile, or (3) a population density between 6,000 and 10,000 persons per square mile and less than 5 percent vacant (non-farm) land measured by the average of the percentage of parcels and valuation in the municipality.

Rehabilitation Obligation

The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units existing in Perth Amboy that are occupied by low- and moderate-income households. The Jacobson Methodology establishes the City's rehabilitation obligation as 335 units.

Prior Round Obligation

The Prior Round obligation can be defined as the cumulative 1987 through 1999 new construction affordable housing obligation. This period corresponds to the First and Second Rounds of affordable housing. The Jacobson Methodology establishes the City's prior round obligation as 0 units.

Third Round Obligation

The future demand for affordable housing includes the portion of the third round (1999- 2015) that has already passed – referred to as gap period present need, as well as a 10-year projection into the future (2015-2025) – referred to as the prospective need. The Jacobson Methodology establishes the City's third round obligation as 0 units.

SATISFACTION OF THE AFFORDABLE HOUSING OBLIGATION

As stated above, the City has only one component of an affordable housing obligation that must be satisfied – the rehabilitation obligation.

Satisfaction of the Rehabilitation Obligation

Perth Amboy's Department of Human Services Office of Housing and Social Services administers the "Home Improvement Grant" Program, which is funded by the Federal HOME program. The "Home Improvement Grant" is a City-wide program that offers rehabilitation grants to address unsafe housing conditions and code violations to low and moderate income homeowners. The program provides funding for the replacement or repair of a major system, consistent with COAH's rules, and places a lien on the property as a condition of the funding. The funding for units which shall meet rehabilitation obligation shall not be RCA funds received from sending municipalities which have entered into RCA agreements with the City of Perth Amboy. Since 2015 the City has rehabilitated 13 owner-occupied homes with each project having hard costs between \$12,000 and 21,000. However, the HOME funds have been redirected in 2020 to provide rental assistance for households in need due to the economic and health consequences



of the COVID-19 Pandemic. As the need for this assistance subsides, the City will redirect its HOME funds toward rehabilitation activities. It is estimated that the funding will be up to \$200,000 annually.

All rehabilitated units will comply with the definition of a substandard unit in N.J.A.C. 5:93-5.2(b), which states, “a unit with health and safety code violations that require the repair or replacement of a major system.” Major systems include weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load bearing structural systems. All rehabilitated units shall meet the applicable construction code. Additionally, all rehabilitated units for which credit is sought shall be occupied by low- or moderate-income households and subject to 10-year affordability controls, as described above. The average hard cost will be at least \$10,000. Administration of affordable units, as well as affirmative marketing and affordability controls, will meet the applicable standards in the Uniform Housing Affordability Control rules, N.J.A.C. 5:80-26.1.

Creation of New Affordable Housing Units

As stated, the City is a qualified urban aid municipality and thus has zero-unit prior round and third round obligations. As such, no programs or strategies are necessary to meet these obligations. While the City is not obligated to address housing concerns beyond the rehabilitation obligation, it nonetheless recognizes the need to improve housing quality and overcrowding concerns as well as affordability concerns.

The City will strive to meet the various requirements for distribution of affordable units and in doing so recognizes the need to ensure quality housing for families, seniors and those with special needs, and housing for a variety of incomes within the “umbrella” of low and moderate income housing. Additionally, compliance with these requirements (as well as the other applicable requirements) will ensure the affordable units will be eligible for credit against any future affordable housing obligation assigned to the City. The requirements for unit distribution, as set forth in the NJ Fair Housing Act (N.J.S.A 52:27D-301 et seq.) and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) are set forth below. Note that the term “family” unit, as used below, is defined as a unit not reserved for seniors or those with special needs.

- Minimum Family Obligation: Not less than 50% of affordable units meeting the obligation shall be reserved for families.
- Minimum Rental Obligation: Not less than 25% of affordable units meeting the obligation shall be for-rent.
- Minimum Family Rental Obligation: Not less than 50% of the affordable units meeting the rental obligation shall be reserved for families.
- Maximum Senior Units: Not more than 25% of the affordable units meeting the obligation shall be reserved for seniors.



- Minimum Low-income Unit Obligation: Not less than 50% of the affordable units in any project shall be reserved for low-income households. Note that the remaining 50% may be reserved for low or moderate income units.
- Minimum Very Low-Income Unit Obligation: Not less than 13% of the affordable units in any project shall be reserved for very low-income households. Note that very low income units are a sub-category of low income units and thus contribute toward the low-income obligation.
- Bedroom Distribution: Family affordable housing projects shall meet the following bedroom distribution requirements
 - One-Bedroom and Studio Units: Not more than 20% of the affordable units in a project
 - Two-Bedroom Units: Not less than 30% of the affordable units in a project.
 - Three-Bedroom Units: Not less than 20% of the affordable units in a project.
 - Remaining units may be two or three-bedroom units.

Senior units shall provide an average of one bedroom per affordable units.

Special needs housing is not subject to bedroom distribution requirements.

Mandatory Set-aside Ordinance

The City will adopt an ordinance that requires multi-family or single-family attached development with five (5) or more housing units resulting from a rezoning or redevelopment plan or from variance relief to set-aside 15% of residential units for affordable housing if rental and 20% of the residential units for affordable housing if for-sale. This ordinance will ensure that any opportunities for affordable housing that arise in the future from currently unanticipated development will be captured by either the City or the approving Board (i.e. planning board or zoning board).

Additional Available Affordable Housing Strategies

Several mechanisms are available to the City should opportunities arise for creation of affordable housing by the City, Housing Authority, private developer or non-profit developer. These include the following:

Inclusionary Zoning/Development

Zoning or development that provides for a mix of market rate housing and affordable housing, usually at a rate of 80% market to 20% affordable (for-sale) development or 85% market to 15% affordable (rental). This strategy requires a compensatory benefit, often in the form of increased density, to ensure construction of the affordable and market units are economically feasible. Inclusionary housing is a tool that can be applied as zoning district requirements, overlay zone district requirements, and redevelopment plan requirements.



100% Affordable / Municipally Sponsored Housing

A development consisting entirely of affordable housing units created by a non-profit or for-profit developer, or the Housing Authority, and funded by a mix of subsidies including municipal affordable housing trust funds, grants, tax credits, tax abatements or payments in-lieu of taxes. The City should ensure any developer seeking to create 100% affordable housing does so in a manner that is compliant with the applicable rules, including not limited to 30 year affordability controls, low- and moderate-income distribution, and bedroom distribution.

Special Needs Housing

Housing serving special needs populations including, but not limited to, developmentally disabled adults, persons with substance abuse issues, adults recently out of the foster system, or veterans. These residences are often funded by the N.J. Department of Human Services or Department of Community Affairs. Special needs housing is most often developed in small 100% affordable housing developments, such as a group home.

Assisted Living

Licensed assisted living facilities may generate affordable housing by setting aside units for income-qualified residents. Units occupied by residents receiving a Medicaid waiver often qualify as affordable units.

Senior Housing

Senior development, also referred to as age-restricted housing, such as independent living communities, may create affordable units as either 100% affordable or inclusionary development.

Market-to-Affordable

A municipality or partner thereof may purchase existing market-rate housing units and resell or rent them at a rate affordable to low- and moderate-income households.

Accessory Apartments

Municipalities may adopt zoning policies or fund programs that permit homeowners to create accessory residential apartments on their properties to be available to income-qualified households. Creation of low- or moderate-income accessory apartments typically requires a municipal subsidy of not less than \$20,000.



Extension of Controls

Municipalities may utilize affordable housing trust funds or employ other mechanisms (payment in lieu of taxes is the most common) to extend affordability controls on existing affordable housing units for 30 years if they would have otherwise expired. This strategy may be available for the City's older affordable units, including those created by the Housing Authority.

Strategies to Improve Housing Quality and Affordability

The City's primary concern regarding housing is quality and overcrowding.

Improved Enforcement of Housing Quality

The City struggles with poor housing quality and overcrowding. Unfortunately, the City has limited resources and procedures to adequately address these concerns. That said, there are existing regulations in the City code which, if enforced, can be a starting point for improving housing quality. Addressing these concerns should start with enforcement of the City's property registration requirements (Section 337) which states all rental units shall be registered and annually inspected. The initial and annual inspections yield a certificate of habitability which confirms the habitability of each, the number and type of units. This information is critical for confirming habitable units, confirming rental units have not been subdivided into additional units, confirming the occupancy of the units are consistent with building code occupancy requirements. Applying a registration fee will offset some of the costs from administering the program.

The desire and intention for proper implementation of these regulations are strong in the City; however, the workload from the City's approximate 10,000 housing units is overwhelming for the City's four (4) housing inspectors. City staff estimate that eight (8) inspectors are necessary to adequately fulfill the demand and duties of this position.

Further complicating staff efforts in this regard is the existing online data management system – Spatial Data Logic or SDL. This municipal management system is intended to create a cloud-based system to comprehensively track property conditions, permitting, and inspections/violations. The system is capable addressing all City departments, including but not limited to building construction, zoning, fire, and housing. However, SDL has only been implemented for the City's fire, building construction, and department of public works. It furthermore offers the opportunity for enhanced transparency and accessibility by making property data available online to the public. While this system may hold great potential for municipalities, the experience in Perth Amboy has been unhelpful. City staff state use of the system has resulted in lost data, duplicated work, and a lack of efficiency and effectiveness. The City should coordinate with SDL to determine how the system can be improved such that it is effective and efficient. Should use of SDL be continued, or should another system be selected, the City should expand its use to include the police department and housing inspections at a minimum.



The City may also wish to review the fee structure for housing inspections and violations, as well as other building and fire code inspections and violations, to determine if they are need of adjustment to better fund activities of the department and/or to better address equity.

Improved Rent Control

Since 1983 the City has had regulations in place, at Section 353 of the City Code, which limit permitted rent increases. The regulations apply to all rental units (including rooming houses and resident hotels), excluding only housing units of three units or less in which the owner of the building resides on site. The City's standards provide that rent increases shall be limited to 5% of the current rent at the expiration of a tenant's lease. Exceptions to the 5% include hardships experienced by the landlord related to 1) financial hardship where a landlord's reasonable operating expenses exceed sixty percent (60%) of his rental income, and 2) a major capital improvement to the unit(s). In each instance, the landlord is required to apply to the City's Rent Leveling Board and the Board must make findings in support of their decision.

Rent control does not create housing that is reserved for income-qualified low and moderate-income households that are eligible for credit against an affordable housing obligation (rehabilitation or new construction). However, rent control is an important tool for ensuring existing City residents are not faced with unreasonable rent increases and/or those that exceed their financial ability. Rent control is a tool to limit evictions of vulnerable City residents, particularly in times of rising housing costs.

Implementation and enforcement of the rent control ordinance suffers, in part, in years past from lack of appointments to the Rent Leveling Board. The City recently appointed members to the Board such that there currently five (5) serving members. The City should maintain appointment of the five (5) necessary members (note that 3 members are required for a quorum). Full membership of the Board is recommended to ensure workload of the Board is not overwhelming for the members and that the duties of the Board can be fully implemented, including but not limited to rendering a decision within 45 days and supplying information and assistance to landlords and tenants alike regarding compliance with the applicable regulations.

It is further recommended the board, with assistance of City staff and professionals (the Office of Social Services and Housing is the designated liaison to the Board), review the existing regulations in the City Code. The following should be considered:

- Evaluate the City's rent control regulations for consistency with State law. For example, while the applicable housing type is identified, the regulations suggest all applicable housing types are subject to its provisions. This is in conflict with State law which limits applicability to those housing units created after adoption of the 1987 state regulations and state law requiring eligible units to not be regulated during the initial mortgage period or for the first 30 years, whichever is less.
- Expand the Board membership to seven (7) people, of which two (2) would be designated alternates. Doing so will better ensure a quorum during meetings and will better distribute the Board's workload.



- Evaluate the permitted rent increase of 5% of the current rent to determine if it should be adjusted. This should consider a lower permitted increase and/or changing the basis for the adjustment from the current rent to the Consumer Price Index (CPI)⁴. Should the CPI be used, the City should consider limiting the increase to be no greater than percent difference between CPI three (3) months prior to expiration of the lease and the start date of lease.
- Evaluate whether there should be special provisions for those with particular housing concerns, such as the elderly, veterans, and those with special needs.
- Consider vacancy decontrol, which would set rent at market or near market rate when a unit is vacant. More specifically, it would limit the permitted increase in rent between occupants.
- Require a fee for submission of a compliant by a landlord to the Board.
- Where a rent increase is requested, require completion of an application, appropriate documentation (such as proof of financial hardship), and an application fee.
- Limit rent increases for capital improvements to one per year.
- The Board should review and promulgate revised rules and regulations regarding their activities and actions. These rules and regulations should be designed to streamline the application and request process from landlords and tenants, ensure the decision making process is transparent, and implement policies for educating tenants and landlords about their rights and obligations as they relate to the City's rent control regulations, as well as New Jersey housing and tenant laws.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Perth Amboy has prepared an Affordable Housing Ordinance in accordance with CO-AH's substantive rules and UHAC. The Ordinance will govern the establishment of affordable units in the City as well as regulating the occupancy of such units. The Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

An experienced affordable housing administrator will ensure that all affordable units are occupied consistent with the applicable rules (UHAC N.J.A.C. 5:80-26.1 et seq; COAH's second round rules N.J.A.C. 5:93). Additionally, the City will appoint a staff person to serve as the municipal housing liaison which serves the role of answering or directing questions to the appropriate person, such as the affordable housing administrator, and directing correspondence related to affordable housing. The City will require all developers of affordable units to contract with and utilize the City's administrative agent, unless the

⁴ The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. Indexes are available for the U.S. and various geographic areas.



developer can demonstrate their experience and capacity to do so on their own. Where the developer utilizes their own administrative agent, the City's municipal housing liaison will provide coordination for the purpose of affirmatively marketing to eligible households.

The City will adopt an affirmative marketing plan for all affordable housing sites addressing its fair share obligation. The affirmative marketing plan, attached hereto in the Appendices, is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the City. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the City housing region, Region 3, consisting of Middlesex, Hunterdon and Somerset Counties.

The affirmative marketing plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and UHAC N.J.A.C. 5:80-26. All newly created affordable units will comply with the thirty-year affordability control required by UHAC, N.J.A.C. 5:80-26-5 and 5:80-26-11. This plan must be adhered to by all private, non-profit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

AFFORDABLE HOUSING TRUST FUND

The City has not previously adopted a development fee ordinance. With the adoption of this Housing Element and Fair Share Plan, the City will adopt a Development Fee Ordinance, which will permit the City to collect residential development fees equal to 1.5% of the equalized assessed value of new residential construction and nonresidential development fees equal to 2.5% of the equalized assessed value of new nonresidential construction, consistent with COAH's rules and in accordance with the "Roberts Bill", P.L. 2008 c.46. A new spending plan will be prepared consistent with this Plan. The Spending Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, was prepared in accordance with COAH's applicable substantive rules. All collected revenues will be placed in the City's Affordable Housing Trust fund and will be dispensed for the use of eligible affordable housing activities including, but not limited to:

- Rehabilitation program;
- New construction of affordable housing units and related development costs;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;



- Purchase of affordable housing units for the purpose of maintaining or implementing affordability controls,
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.

However, the City is required to fund eligible programs in a Court-approved Housing Element and Fair Share Plan, as well as provide affordability assistance.

At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of the revenues collected from development fees each year, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.

COST GENERATION

Perth Amboy will review development applications which include one or more affordable housing units with an effort to eliminate unnecessary cost generating standards, such as but not limited to expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the mandate of the FHA regarding unnecessary cost generating features. Perth Amboy shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing.