

**TOWNSHIP OF HOLLAND
HUNTERDON COUNTY**

ORDINANCE 2018-10

AN ORDINANCE AMENDING AND MODIFYING CHAPTER 41 “ACCESSORY APARTMENTS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACTION AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)

WHEREAS, the Township of Holland has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

WHEREAS, the Township Committee of the Township of Holland desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Holland, as follows:

Section 1. Chapter 41, “Accessory Apartments”, is hereby amended and supplement with new text underlined and text for deletion in ~~strikeout~~ as follows:

§ 41-1. Applicability and purpose.

It is the purpose of this program to help meet Holland Township's fair-share housing obligation through the subsidization of up to 10 voluntary conversions of existing single-family dwellings or accessory buildings in the Township to accommodate accessory apartments for occupancy by low or moderate income households.

This chapter applies to the creation of subsidized accessory apartments in the R-5 Residential District of the Township of Holland. Additional regulations governing the creation of accessory apartments in this zone are contained in this Chapter 100, Land Use.

§ 41-2. General requirements.

- A. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is a very-low, low, or moderate income household meeting the income eligibility standards established by COAH as set forth in any agreement or deed restriction.
- B. Rents of accessory apartments, including an allowance for utilities, shall be affordable to very-low, low, or moderate income households as per COAH and UHAC regulations.
- C. There shall be a recorded deed or declaration of covenants and restrictions applied to the property

upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.

- D. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
- E. The Township accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
- F. No accessory apartment created as a result of this Chapter or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
- G. Municipal building permit fees shall be waived in all cases involving affordable accessory apartment development under this section. An annual license and inspection fee, if required, shall be paid by unit owners.
- H. The maximum number of creditable accessory apartments shall be equal to no more than 10 or an amount equal to 10 percent of the Township's fair share obligation, whichever is greater (additional units may be approved by COAH or a court of competent jurisdiction if the municipality has demonstrated successful completion of its accessory apartment program.).
- I. Accessory apartments are permitted in existing principal or accessory buildings on lots in all zones and according to the applicable area, yard and bulk requirements.
- J. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey, in addition to all building codes.
- K. The accessory apartment shall have living and sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants.
- L. The accessory apartments shall consist of not less than two rooms, one of which shall be a bathroom containing a flush toilet, wash basin and bathroom tub or shower.
- M. All rooms shall be accessible from within the apartment.
- N. The accessory apartment shall be separate from the primary residence and private and secure from all attached units.
- O. The apartment shall have direct access to the outdoors or directly to a hall from which there is direct access to the outdoors without passing through any other units, and the accessory apartment shall comply with all requirements of the applicable building codes.
- P. If the apartment is located on the second or third floor, there shall be at least two means of access to the outdoors, available at all times, as approved by the Construction Official. Exterior stairways for the accessory apartment shall be located at the rear or side of the

- structure.
- Q. No apartment shall be located above the third floor.
- R. At least one off-street parking space per bedroom shall be provided for each apartment, situated in the side yard or rear yard only.
- S. An accessory building in which a supplementary apartment is built may not be used for any other purpose, except for the storage of vehicles and equipment normally used on residential or agricultural lots or the operation of a residential or agricultural workshop, provided that large quantities of toxic or hazardous materials are not stored in the building.
- T. If the accessory apartment will be served by a sanitary disposal system such shall be approved by the Board of Health.

§ 41-3. Definitions.

Definitions pertaining to affordable housing not found below are the same as those definitions defined in Chapter 42, Affordable Housing Regulations:

APPLICANT — The person or persons applying for funds to create an accessory apartment in accordance with the provisions of this chapter.

INSPECTION OFFICER — A qualified inspector hired, appointed or contracted by the Administrative Agent to perform the duties described in this chapter.

SUBSIDIZED ACCESSORY APARTMENT — A portion of a single-family dwelling or an existing accessory building which has been converted through the use of public funds to create an additional dwelling unit which shall be deed restricted for occupancy by and affordability to a qualified affordable household for a period of at least 10 years as part of the Township's affordable housing program.

UTILITY ALLOWANCE — An allowance for utilities that is consistent with the personal benefit expense allowance for utilities as defined by HUD (or a similar allowance approved by COAH).

§ 41-4. Eligibility.

Only owners of existing dwelling units within the Township of Holland are eligible to apply for the accessory apartments program. Eligibility is further determined by the following criteria:

- A. The owner must agree to rent the accessory apartment unit only to an affordable household. Proof of each prospective tenant's income qualifications shall be required by the Administrative Agent.
- B. Any existing code deficiencies in the portion of the building to be devoted to the accessory apartment unit shall be corrected, and the unit shall be brought up to code standard. The standard for evaluating any rehabilitation activity on an existing dwelling unit shall be N.J.A.C.

5:23-2.4 and 5:23-2.5. The evaluation shall be undertaken and certified by the Inspection Officer.

- C. The owner of the accessory apartment shall agree, by written contract, to comply with all of the requirements of Chapter 42, Affordable Housing Regulations, of the Code of the Township of Holland.

§ 41-5. Administration.

- A. Affirmative marketing plan.
 - (1) The accessory apartments created shall be affirmatively marketed in accordance with the Township's affirmative marketing plan.
 - (2) Notification of the availability of funds for the creation of accessory apartments shall be accomplished through the circulation of flyers describing the accessory apartments program, to be enclosed with the annual property tax bills; periodic press releases issued to the official newspaper to promote interest in the program; and making information and application packets available to interested owners upon request and free of charge.
- B. Administrative Agent. The Township Committee shall designate an Administrative Agent whose duties with respect to the accessory apartments program may include all or some of the following:
 - (1) Preparing an accessory apartments program manual consisting of the following:
 - (a) Procedures for program marketing;
 - (b) Criteria for determining eligibility of properties;
 - (c) The amount of money currently available for accessory apartment conversions or additions;
 - (d) Procedures for application intake;
 - (e) Procedures for review and approval of work, including interim inspections of work; and
 - (f) The length and terms of affordability controls.
 - (2) Preparing information packets to be distributed to interested owners.
 - (3) Developing the necessary application forms to be used by owners interested in applying for participation in the accessory apartments program. The application form shall clearly state that any owner who utilizes the provisions of this program shall agree to place a deed restriction and a lien on his or her property. In addition, the application form shall require proof of ownership, insurance and other general information on the property in question. The content of the forms shall be approved by the Township Committee prior to

their distribution to potential applicants.

- (4) Determining the eligibility of each property based on the requirements of the program.
- (5) Providing assistance to each applicant in completing application forms, submitting required documentation, and obtaining contractors' estimates.
- (6) Monitoring the progress of each accessory apartment project and coordinating contractor proposals, inspections and payments under the terms of the program.
- (7) Monitoring and oversight of the deed restrictions placed on properties that are participating in the accessory apartments program.
- (8) Preparing and presenting annual monitoring reports to the Township Committee to assist in the Township's submission of annual monitoring reports.
- (9) Maintaining confidential files on each program applicant. The files shall be used in responding to monitoring requirements and to protect the municipality against charges of irregularity. The files shall include:
 - (a) The name of each applicant;
 - (b) If the applicant is not approved, the reasons for the disapproval; and
 - (c) If the applicant is approved:
 - [1] The initial inspection report of the Inspection Officer;
 - [2] Bids submitted by contractors;
 - [3] The final owner/contractor agreement;
 - [4] The owner/Township contract;
 - [5] Progress reports and interim inspection reports;
 - [6] A copy of the final inspection report; and
 - [7] A copy of the lien.

C. Inspection Officer. The Administrative Agent shall designate a qualified Inspection Officer who will report to the Administrative Agent. The duties of the Inspection Officer include:

- (1) The initial inspection of the property to determine the condition of the existing dwelling.
- (2) A determination of whether or not the proposed improvements and the estimated cost of the improvements needed to create the accessory apartment will meet the parameters of the accessory apartments program. The Inspection Officer's report on the nature and cost

of the improvements shall be made in writing to the Administrative Agent.

- (3) Interim and final inspections of work in progress and the issuance of a certificate of occupancy for the new dwelling unit. The certification shall bear the date of the inspection and shall be submitted in a written report to the Administrative Agent.

D. Funding.

- (1) The Township shall include in its annual budget sufficient funds to cover the costs of the accessory apartments program. The money expended on the accessory apartments program shall be exempt from the limitations on final appropriations imposed pursuant to P.L. 1976, c. 68 (N.J.S.A. 40A:4-45.1 et seq.).
- (2) The Township Committee shall appropriate money in its annual budget to provide ten-year forgivable loans to fund the creation of up to 10 accessory apartments in the amount of \$20,000 per moderate income unit and \$25,000 per low income unit.
- (3) A minimum of \$20,000 shall be provided for each moderate income unit and \$25,000 for each low income accessory apartment unit to be created.

E. General procedures for application, review, and approval.

- (1) Interested owners will be able to secure information and application packets from the Administrative Agent and from the Township Clerk.
- (2) Interested owners will submit a completed application form to the Administrative Agent. The Administrative Agent will be available to assist the owner in the completion of the application form.
- (3) Interested owners who submit applications for the accessory apartments program shall not be required to pay application fees.
- (4) Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
 - (a) A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
 - (b) Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
 - (c) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

- (5) The Administrative Agent will review the application for completeness and, if the application is complete, determine that the applicant has signed a binding contract stating his or her willingness to rent the accessory apartment unit to a qualified affordable household.
- (6) The Inspection Officer will then inspect the property to rule on whether the structure which will contain the accessory apartment unit meets applicable code requirements. The Inspection Officer's determination will be submitted in writing to the Administrative Agent.
- (7) If the Inspection Officer issues a satisfactory report, the Administrative Agent will forward a copy of the application to the Township Committee for its approval. The Administrative Agent shall be available to discuss the application with the Township Committee at the time of its consideration.

§ 41-6. Approvals and payments.

- A. If the Township Committee approves the application, it shall simultaneously authorize the transfer of the required amount of the forgivable loan to a trust account to be administered by the Township Clerk.
- B. The project may begin as soon as the applicant and the Administrative Agent have, in the presence of the Township Attorney, signed all of the necessary agreements. The Township Attorney shall arrange for the filing of the lien and deed restriction with the property deed.
- C. The Township Committee shall only deny an application for an accessory apartment subsidy if the project will not be in conformance with COAH's requirements, the Township's Land Use Ordinance², or this chapter. All denials shall be in writing with the reasons therefor clearly stated.
- D. If any construction is required, the Inspection Officer will inspect the unit after the work is completed and determine that the work has been completed in accordance with the approved work plan. If the work is incomplete, the payment to the homeowner shall be withheld until the work is completed to the satisfaction of the Inspection Officer and in accordance with the owner/contractor agreement.

§ 41-7. Affordability controls.

- A. Liens on property. An owner who receives financial assistance under the provisions of the subsidized accessory apartments program shall be required to place a lien on his or her property. The following requirements shall apply to such liens:
 - (1) The Township shall be specified as the lienholder.
 - (2) The lien shall specify that the value of the lien equals the amount of the monetary benefits received by the applicant under the accessory apartments program.

² Editor's Note: See Ch. 100, Land Use

- (3) A record of the lien will be kept on the property tax record, in the County Clerk's files, in the Administrative Agent's records, with the deed and with the insurance policy, as required by this program.
 - (4) The owner shall notify the Administrative Agent, in writing, of the intent to sell a property that has benefitted from the accessory apartments program, if the accessory apartment is still under the restrictions required by this program.
 - (5) Each time the unit is rented, the owner must contact the Administrative Agent and verify that the unit will continue to be occupied by a qualified affordable household and that the rent charged meets the affordability guidelines of the program.
 - (6) All properties shall be checked for liens, and any suspected violations of the program shall be reported to the Administrative Agent for further investigation.
 - (7) At the termination of the affordability controls, the loan shall be forgiven.
- B. Length of affordability. Owners who utilize the provisions of the accessory apartments program shall accept a deed restriction on the property. The deed restriction shall state that only an affordable household, as determined by the Administrative Agent, shall occupy the accessory apartment unit. The deed restriction shall be recorded, and a copy of the recorded deed shall be forwarded to the Administrative Agent. The deed restriction shall go into effect as soon as a certificate of occupancy has been issued and shall apply for 10 years. Sale of the property shall not affect the length or terms of the deed restriction.
- C. Pricing. The Administrative Agent and owner(s) of a deed-restricted accessory apartment unit must follow the rental guidelines set forth below:
- (1) Gross rents, including a utility allowance consistent with the utility allowance approved by HUD for use in New Jersey, shall be set so as not to exceed 30% of the gross monthly income for the appropriate household size and income level. Maximum rents for each household size and income level shall be calculated based on the regional weighted average of the current uncapped Section 8 income limits published by HUD.
 - (2) The following criteria shall be used to calculate applicable rents for the accessory apartment units:
 - (a) Efficiency units shall be affordable to one-person households;
 - (b) One-bedroom units shall be affordable to one-and-one-half- personhouseholds;
 - (c) Two-bedroom units shall be affordable to three-person households.
 - (3) The rent level of each subsidized accessory apartment shall be affordable to an appropriately sized household, as set forth in Subsection C(2) above, earning not more than 50% of the regional median income for that size household. The Administrative Agent shall establish the maximum rent level for each subsidized accessory apartment

based upon these criteria.

- D. Annual indexed increases. The rents of the accessory apartment units may be increased annually in accordance with N.J.A.C. 5:93-9.15.

§ 41-8. Program compliance.

The provisions of this chapter notwithstanding, the accessory apartments program will comply with all of the regulations of the Council on Affordable Housing and with the requirements of the Chapter 42, Affordable Housing. When references to the New Jersey Administrative Code (N.J.A.C.) made herein are superseded, the successor correlative regulations are intended to be referred to.

Section 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

Section 4. Effective date.

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

**TOWNSHIP OF HOLLAND
HUNTERDON COUNTY**

ORDINANCE 2018-11

AN ORDINANCE RENAMING CHAPTER 42 OF THE CODE OF THE TOWNSHIP OF HOLLAND, "AFFORDABLE HOUSING REGULATIONS," AND REPLACING THE ENTIRE CONTENTS THEREOF TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)

WHEREAS, the Township of Holland has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

WHEREAS, the Township Committee of the Township of Holland desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township is desirous of amending and supplementing the Township Code to include provisions addressing Holland’s constitutional obligation to provide for its fair share of low and moderate income housing consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Holland, as follows:

Section 1. Chapter 42 “Affordable Housing”, is hereby renamed “Affordable Housing Regulations”, deleted in its entirety and replaced as follows:

Chapter 42: Affordable Housing Regulations.

ARTICLE I AFFORDABLE HOUSING REQUIREMENTS

§42-1 Purpose.

- A. The purpose of this Chapter is to provide for and regulate affordable housing in the Township of Holland. This Ordinance is intended to assure that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income individuals and households shall occupy these units.
- B. The Township of Holland Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Township Committee. The Fair Share Plan describes the ways the Township of Holland addresses its fair share for low and moderate income housing.
- C. This Ordinance implements the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as it may be amended and supplemented.

§42-2 Monitoring requirements.

- A. The Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), Local Government Services (LGS) or other entity designated by the State of New Jersey.
- B. The Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting activity on the CTM system and/or file a copy of its report with COAH or its successor agency at the State level.

§42-3 Definitions.

All definitions contained in N.J.A.C. 5:96-1.1 et seq., as may be amended by the decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) or a court of competent jurisdiction, Procedural Rules of the New Jersey Council on Affordable Housing, and N.J.A.C. 5:97-1.1. et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction, Substantive Rules of the New Jersey Council on Affordable Housing, are hereby incorporated and adopted as if set forth in full herein. For convenience, the following definitions are provided for reference purposes. In the event of any conflict or amendment to the New Jersey Administrative Code (N.J.A.C.), the definitions and rules duly promulgated pursuant to the Administrative Procedures Act shall govern this chapter. The following terms when used in this Chapter shall have the meanings given herein:

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

The entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

A sales price or rent level that is within the means of a low or moderate income household as defined within N.J.A.C. 5:93-7.4, 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 it 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 it may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township’s fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

AFFORDABLE UNIT

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

AGENCY

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

AGE-RESTRICTED UNIT

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

ALTERNATIVE LIVING ARRANGEMENTS

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E 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

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

CERTIFIED HOUSEHOLD

A household that has been certified by an Administrative Agent as a low income household or moderate income household.

COAH

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

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

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a 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

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

LOW INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

Housing not restricted to low and moderate income households that may sell or rent at any price.

MEDIAN INCOME

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

MODERATE INCOME HOUSEHOLD

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

MODERATE INCOME UNIT

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

MULTIFAMILY UNIT

A structure containing five or more dwelling units.

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

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

REHABILITATION

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

RENT

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

RESTRICTED UNIT

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

UHAC

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

VERY-LOW INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

VERY-LOW INCOME UNIT

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

WEATHERIZATION

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

§42-4 Applicability.

- A. The provisions of this Ordinance 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 Holland.
- B. Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently anticipated future developments that will provide low and moderate income housing units.

§42-5 Rehabilitation Program.

- A. Holland's rehabilitation program shall be designed to renovate deficient housing units occupied by low and moderate income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The assistance provided under this Section shall be available until the number of units set forth in the Township's Fair Share Plan have been satisfactorily rehabilitated within the Township's period of substantive certification.
- B. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- C. All rehabilitated units shall remain affordable to low and moderate income households for a period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- D. The Township of Holland shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program for hard costs.
- E. The Township of Holland shall designate one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- F. Eligibility.
 - (1) Household eligibility.
 - (a) Only owners of houses or structures within the Township are eligible for the rehabilitation assistance provided under this chapter. For owner-occupied units, the owner shall be determined to be income eligible as a low or moderate income household as herein defined, in accordance with this chapter. For renter-occupied units, the tenant household shall be determined to be income eligible as low or moderate income, in accordance with this chapter.

- (b) Owners of vacant units which are found to be eligible for assistance under this chapter shall enter into an agreement or deed restriction, that the unit will either be rented or sold to a low- or moderate-income eligible household as provided in this chapter and the rent or sales price of the unit shall be restricted for a term of years as outlined herein.

(2) Unit eligibility.

- (a) A dwelling unit which is proposed to be rehabilitated under this chapter must be found to be a substandard housing unit in accordance with N.J.A.C. 5:97-1.1 et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction. A "substandard housing unit" is defined as a unit that was built prior to 1950 and is overcrowded or one with health and safety code violations that require the repair or replacement of a major system. A major system shall include a roof, plumbing (including wells), heating, electricity, weatherization, sanitary plumbing (including septic systems) and/or a load bearing structural system. Upon rehabilitation, housing deficiencies shall be corrected, and the house shall be brought up to code standard. The standard for evaluating rehabilitation activity shall be the local property maintenance code or, if none is available, the BOCA National Existing Structures Code. The rehabilitation activity shall not include luxury improvements, the purchase of appliances (with the exception of stoves) or improvements that are strictly cosmetic.
- (b) All rehabilitated units shall remain affordable to low and moderate income households for a period of 10 years (the control period). Owners of units rehabilitated under this chapter shall be bound by a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment the form of which shall be prepared by the Township Attorney in conformance with the Act.

G. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:

- (1) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low or moderate income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
- (2) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
- (3) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
- (4) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

§42-6 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 COAH or its successor agency.
 - (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 COAH or its successor agency.
 - (1) 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.

§42-7 Accessory apartment program

Accessory apartments created under this program shall abide by the regulations in this Chapter and those outlined in Chapter 41 “Accessory Apartments”.

§42-8 Inclusionary zoning.

The Township has zoned Block 24, Lots 3 and 13 as the Planned Commercial Development/Planned Senior Village Development (PCD/PSV) District. This zone permits multi-family housing at four units per acre. An approval was granted for this site that permits 106 market-rate units and 26 affordable units.

§42-9 Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

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

§42-10 Fractional units.

- A. Inclusionary developments that result in an affordable housing obligation that is fractional shall either round up and provide the additional affordable unit or in the alternative the developer may pay a payment-in-lieu for the fraction.

- B. The payment-in-lieu for Holland shall be \$150,000 for 2018. The payment-in-lieu shall increase by 3% each year. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment. For example, a fraction of 0.4 triggered in 2018 would require a payment of \$60,000.

§42-11 New construction.

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- (1) The fair share obligation shall be divided equally between low and moderate income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13% of all restricted rental units shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income units shall be counted as part of the required number of low income units within the development.
- (2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- (3) A maximum of 25% of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be non-restricted.
- (4) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units.
- (5) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low and moderate income units;
 - (b) At least 30% of all low and moderate income units shall be two-bedroom units;
 - (c) At least 20% of all low and moderate income units shall be three-bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (6) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free

Subcode, N.J.A.C. 5:23-7.

(2) All restricted townhouse dwelling units and all restricted units in other multi-story 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 casing for the installation of a door, on the first floor; and

(e) If not all of the foregoing requirements in (2)(a) through (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 (2)(a) through (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 Holland has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

[1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit funds within the Township of Holland's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph (f)[2] above shall be used by the Township of Holland 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 Holland 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 Chief Financial Officer who shall ensure that the funds are deposited

into the Affordable Housing Trust Fund and appropriately earmarked.

[6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site impracticable” to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Design.

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

D. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate income units, provided that at least 13% of all low and moderate income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low income housing requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate income ownership units must be available for at least three different sales prices for each bedroom type, and low income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;

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

§42-12 Utilities.

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

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

§42-13 Occupancy standards.

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

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

§42-14 Control periods for restricted ownership units and enforcement measures.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.5, as it may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Holland takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it 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 Ordinance, 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 Ordinance 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 it may be amended and supplemented.

§42-15 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 it may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See §42-18.

§42-16 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 it may be amended and supplemented, such that low income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income, and moderate income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit moderate income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low income purchasers to permit prompt occupancy of the units. All such low income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low income household or a moderate income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

§42-17 Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall

apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

§42-18 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 adds 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 10-year, straight- line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The 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.

§42-19 Control periods for restricted units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.11, as it may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Holland takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it 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 Hunterdon. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale of other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgement of foreclosure on the property containing the unit.

§42-20 Rent restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§42-21 Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as it may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (2) Low income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low income household or a moderate income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as it may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing

costs;

- (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

ARTICLE II MUNICIPAL HOUSING LIAISON

§42-22 Municipal Housing Liaison.

- A. The Township of Holland shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Holland, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (1) Serving as Holland'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 Holland's Fair Share Plan;
 - (3) Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Holland when referring households for certification to affordable units.

D. Affordability Controls:

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

E. Sales and Re-rentals:

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

F. Processing Requests from Unit Owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Chapter;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (3) Notifying the Township of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

G. Enforcement:

- (1) Securing annually from the Township a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- (3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the Township's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee, setting forth procedures for administering the affordability controls.

H. Additional Responsibilities:

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

ARTICLE IV AFFIRMATIVE MARKETING REQUIREMENTS

§42-24 Affirmative Marketing Requirements.

- A. The Township of Holland shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-25.15, as it 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.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- D. The Township 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 re-rentals. The Administrative Agent designated by the Township of Holland 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 Holland Municipal Building, Holland Library, Middlesex County Administration Building, Somerset County Administration Building, Somerset County Library Headquarters, Hunterdon County Library Headquarters and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Township's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

ARTICLE V ENFORCEMENT

§42-25 Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the Township 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 Township 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 Township 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. 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 Holland Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (b) In the case of an Owner who has rented a low or moderate income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The Township 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 Township, 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 Township, 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 Township 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 Township 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 Township 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 Township 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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.

- (c) Foreclosure by the Township 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 affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the 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 Township shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Township, with such offer to purchase being equal to the maximum resale price of the low and moderate income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

ARTICLE VI APPEALS

§42-26 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Chapter shall be filed in writing with the Executive Director of COAH.

Section 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

Section 4. Effective date.

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

ORDINANCE 2018-12

AN ORDINANCE AMENDING CHAPTER 66 “DEVELOPMENT FEES” TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES AS PERMITTED BY THE FAIR HOUSING ACT

WHEREAS, 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, N.J.S.A. 52:27d-301, *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH); and

WHEREAS, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans; and

WHEREAS, by the Committee of the Township of Holland, Hunterdon County, New Jersey, that Chapter 66 is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Township’s affordable housing programs, consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Holland, as follows:

Section 1. Chapter 66 “Development Fees” is hereby deleted in its entirety and replaced as follows:

Chapter 66: Development Fees.

§66-1. Purpose.

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH’s regulations developed in response to P.L. 2008, c. 46, Sections 8

and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very-low, low and moderate income housing.

§66-2. Definitions.

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

AFFORDABLE HOUSING DEVELOPMENT

Development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

COAH or the COUNCIL

The New Jersey Council on Affordable Housing established under the Fair Housing Act.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

DEVELOPER

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

EQUALIZED ASSESSED VALUE

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

GREEN BUILDING STRATEGIES

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

§66-3. Residential development fees.

A. Imposition of fees.

- (1) Within the Township of Holland, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

- (2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees would equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- (1) Eligible construction, as referred to in this chapter, shall be new construction for which a construction permit is required pursuant to the New Jersey State Uniform Construction Code Act.
- (2) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Township of Holland, shall be exempt from the payment of development fees.
- (3) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
- (4) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (5) Owner-occupied homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

§66-4. Non-residential development fees.

A. Imposition of fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

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

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

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

§66-5. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit and the Township Development Regulations officer.

- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/ Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of Holland fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- H. Except as provided in 66-4 A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the Hunterdon County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Holland. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the

Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Holland. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§66-6. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Holland for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Holland;
 - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Holland's affordable housing program.
- C. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities.

§66-7. Use of funds.

- A. The expenditure of all funds shall conform to a Spending Plan. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved to address the Township of Holland'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; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and

infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the rules and specified in the approved Spending Plan.

- B. Funds shall not be expended to reimburse the Township of Holland for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees 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 (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 3, in which Holland is located.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.
 - (3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Holland, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township of Holland may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
 - (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
 - (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with annual monitoring requirements.

§66-8. Monitoring.

The Township of Holland shall provide annual reporting of Affordable Housing Trust Fund activity

to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Holland's affordable housing programs, as well as an accounting of the expenditures of revenues.

Section 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

Section 4. Effective date.

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.