

MOUNT LAUREL SETTLEMENT AGREEMENT

THIS MOUNT LAUREL SETTLEMENT AGREEMENT (“Agreement”) is made on this _____ day of _____, 2016 by and between the **TOWNSHIP OF NORTH HANOVER** (“Township” and/or “North Hanover”), a municipal corporation of the State of New Jersey, with offices at 41 Schoolhouse Road, Jacobstown, New Jersey 08562 and **FAIR SHARE HOUSING CENTER** (“FSHC”) with offices at 510 Park Boulevard, Cherry Hill, New Jersey 08002.

RECITALS

1. The New Jersey Council on Affordable Housing (“COAH”) heretofore determined that North Hanover had a prior round (1987 to 1999) present need (rehabilitation) affordable housing obligation of sixteen (16) units and prospective need (new construction) obligation of one (1) unit.
2. The Township adopted a Third Round Housing Element and Fair Share Plan (collectively “Compliance Plan”) dated December 17, 2008 which documented (a) how the Township planned to address its 16-unit rehabilitation obligation, and (b) the existence of 128 affordable family rental units in the Township that have fifty (50) year affordability controls that extend into the future from 17 to 21 years. A copy of the Compliance Plan is attached hereto as Exhibit “A” and the contents thereof are incorporated by reference herein as if set forth herein at length.
3. The affordable rental units fully satisfy and exceed the Township’s 25% rental obligation pursuant to N.J.A.C. 5:93 – 5.15(a).

4. The Township thereafter petitioned COAH for third round Substantive Certification which was granted on May 14, 2009 pursuant to COAH Resolution No. 4-09 which purportedly provided the Township with immunity and repose against exclusionary zoning challenges until May 14, 2019.

5. However, the Appellate Division and the Supreme Court subsequently invalidated the “growth share” rules that COAH adopted in 2008 upon which the Township’s third round Compliance Plan was based and the Supreme Court, on March 10, 2015, thereafter divested COAH of further administrative review and rulemaking authority in In re N.J.A.C. 5:96 and 5.97, 221 N.J. 1 (2015) [Mount Laurel IV]. The Supreme Court determined that the court must once again resume its role in ensuring that municipalities satisfactorily address their affordable obligations under the Mount Laurel doctrine and the Fair Housing Act (“FHA”). Further, trial courts are now responsible for calculating and determining third round municipal fair share allocations.

6. As such, North Hanover filed a declaratory judgment proceeding on June 29, 2015 in the matter encaptioned In the Matter of the Application of the Township of North Hanover, BUR-L-1528-15 (Mount Laurel) and is presently waiting for the trial court to calculate and determine its third round affordable housing prospective need number so that it can amend its third round Compliance Plan that COAH substantively certified in 2009 to address its new number.

7. FSHC and a consortium of 287 municipalities have retained consultants to assist the trial court judges that are adjudicating the pending Mount Laurel cases in calculating and determining the third round prospective need numbers and there is a wide disparity over the

magnitude of the numbers and disputes over the length of the third round, the resolution of which is necessary before final determinations and housing assignments can be made by the Court.

8. Professor David N. Kinsey, Ph.D., FAICP, P.P. is the consultant who was retained by FSHC. Professor Kinsey calculated the third round prospective need numbers for all municipalities in New Jersey in July of 2015 and determined that North Hanover's third round prospective need number is 192 units.

9. Professor Kinsey readjusted and refined his calculations in a Report issued on May 17, 2016 and concluded that North Hanover's third round prospective need is 145 units.

10. The Mount Laurel cases encourage the settlement of complex affordable housing litigation to avoid delays, the expense of trial, and to expeditiously allow the provision of homes that benefit low and moderate income households.

11. North Hanover desires to avoid further delay and litigation expense and the Township and FSHC, subject to approval by the Court, have agreed to stipulate for settlement purposes that the Township's third round prospective need number is 101 units, which is a 30% reduction from the 145-unit estimate in Professor Kinsey's May 17, 2016 Report.

12. Moreover, the parties agree that the stipulated 101-unit obligation has already been fully satisfied by virtue of the 128 affordable family rental units which already exist in the Township which also fully address the Township's 25% rental obligation.

13. The purpose of this Agreement is to memorialize the parties' commitments, obligations and undertakings with respect to the foregoing.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises, commitments and agreements set forth herein, the parties hereto covenant and agree as follows:

1. The Recitals set forth hereinabove are incorporated by reference herein as if set forth herein at length.

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding North Hanover's third round present and prospective need to avoid the need for further delay and litigation expense.

3. For purposes of settlement, FSHC and North Hanover hereby agree that the Township's affordable housing obligations are as follows:

Present need and/or rehabilitation obligation as per the 5/17/16 Kinsey Report	2 units
Prior round obligation (pursuant to N.J.A.C. 5:93)	1 unit
Third round prospective need (as per the 5/17/16 Kinsey Report as adjusted through this settlement agreement) [30% of 145].....	101 units

4. The Township's efforts to address its present need/rehabilitation share are documented in the December 17, 2008 Third Round Compliance Plan that is attached hereto and made a part hereof as Exhibit "A" and the Township agrees to continue to implement the Plan, recognizing that the Present Need has been calculated as of 2015 and that credits toward the Present Need must be for units rehabilitated during or after 2015.

5. The Township's efforts to address its prior round obligation are as documented in the December 17, 2008 Compliance Plan that is attached hereto as Exhibit "A" and the Township agrees to continue to implement the Plan.

6. The Township's efforts to address its cumulative third round obligation (including its third round prospective need obligation) are documented in the December 17, 2008

Compliance Plan which is attached hereto as Exhibit "A" and the Township agrees to continue to implement the Plan. The parties acknowledge that there are 128 affordable family rental units that exist in the Township that have extended affordability controls. FSHC agrees that these units fully satisfy the Township's prior round and third round prospective need obligations and, subject to future decisions by a court or appropriate agency, may provide surplus units that can be credited against the Township's fourth round prospective need obligation.

7. The Township agrees to amend the December 17, 2008 Compliance Plan to reflect the stipulated 101-unit third round prospective need number as documented herein within sixty (60) days after the Court approves this Agreement and conducts a constitutional compliance assessment of the Compliance Plan as required by the Supreme Court's decision in Mount Laurel IV.

8. FSHC agrees that the 128 affordable family rental units that currently exist in the Township fully satisfy the Township's 25% rental obligation pursuant to N.J.A.C. 5:93-5.15(a). In addition, as the 128 affordable family rental units were built and occupied between 1982 and 1986, the Township does not currently have a very-low income requirement pursuant to N.J.S.A. 52:27D-329.1 which was enacted in 2008. However, the Township may have a future very-low income requirement based on future fair share obligations..

9. The Township shall add FSHC to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), and shall, as part of its regional marketing strategies during its implementation of this Plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing to comply with this paragraph.

10. All future affordable units produced in the Township (including federal tax credit funded units) shall adhere to income and bedroom distribution requirements and be governed by controls on affordability and affirmative marketing in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.* (“UHAC”) or any successor regulation, and any other applicable law with the exception that 13% of rental units shall be set at 30% of median income pursuant to N.J.S.A. 52:27D-329.1 (instead of 10% of rental units set at 35% of median income as currently required by UHAC.). No local residency preferences shall be permitted although COAH’s regional residency/work locational preference is permitted. The foregoing notwithstanding, the parties acknowledge and agree that the 128 affordable family rental units that exist in the Township have controls on affordability that exceed the 30-year minimum in the UHAC regulations.

11. The parties agree that if a court of competent jurisdiction in Burlington County, or a determination by the administrative agency responsible for implementing the FHA, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999 – 2025 that would be lowered by more than 20% in the total prospective third round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable Final Judgment, the Township may seek to amend the Judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to implement the Compliance Plan attached hereto.

12. On the first anniversary date of the execution of this Agreement, and every anniversary date thereafter, through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms

previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

13. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a Motion to Intervene or an Answer or other pleading. The parties to this Agreement agree to request the Court to enter an Order declaring that FSHC is an intervenor, but the absence of such an Order shall not impact FSHC's rights.

14. Prior to becoming effective, this Settlement Agreement must be approved by the Court following a Fairness Hearing as required by Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b. 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at the hearing if requested by FSHC or the Court's Special Master. FSHC agrees not to challenge the attached Compliance Plan at the Fairness and Compliance Hearings in the event that the Court approves this proposed settlement, the parties contemplate the municipality will receive the judicial equivalent of Substantive Certification and accompanying protection as provided under the FHA as is addressed in the Supreme Court's decision in Mount Laurel IV. The accompanying protection shall remain in effect through July 1, 2025.

15. This Settlement Agreement may be enforced through a Motion to Enforce Litigant's Rights or in a separate action filed in the Superior Court, Burlington County. A prevailing movant or plaintiff in such Motion or separate action shall be entitled to reasonable attorney's fees.

16. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any Article, Section, clause or provision of this Agreement shall

not affect the validity of the remaining Articles, Sections, clauses or provisions hereof. If any section of this Agreement shall be adjudicated by a court to be invalid, illegal or unenforceable in any respect, such determination shall not affect the remaining sections.

17. This Agreement shall be governed and construed in accordance with the laws of the State of New Jersey.

18. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the parties.

19. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement.

20. The parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with counsel, that each party is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

21. Each of the parties hereto acknowledges that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all of the parties and therefore, the presumption of resolving ambiguity against the drafter shall not apply. Each of the parties expressly represents to the other party that (1) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (2) has conferred due authority for the execution of this Agreement upon the person executing it.

22. Any and all exhibits annexed to this Agreement are hereby made a part of this Agreement by this reference thereto.

23. This Agreement constitutes the entire Agreement between the parties hereto and supersedes all prior, oral and written agreements between the parties with respect to the subject matter hereof except as otherwise provided herein.

24. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all the parties hereto have executed and delivered this Agreement.

25. All notices required under this Agreement shall be written and shall be served upon the respective parties by certified mail, return receipt requested, or by recognized overnight or personal carrier. In addition, where feasible (for example, transmittals of less than 50 pages) shall be served by facsimile or e-mail. All notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO: FSHC
Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ
Phone: 856-665-5444
Telecopier: 856-663-8182
kevinwalsh@fairsharehousingcenter.org

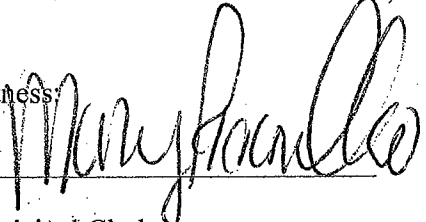
TO: Township of North Hanover
Mary Picariello, Municipal Clerk
Municipal Building
41 Schoolhouse Road
Wrightstown, New Jersey 08562
Clerk@northhanovertwp.com

Copy: Mark Roselli, Esq.
Roselli Griegel Lozier & Lazzaro
1337 Highway 33
Hamilton Square, New Jersey 08690
mroselli@roselligriegel.com

Copy: Ronald C. Morgan, Esq.
Parker McCay P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, New Jersey 08054-5054
rmorgan@parkermccay.com

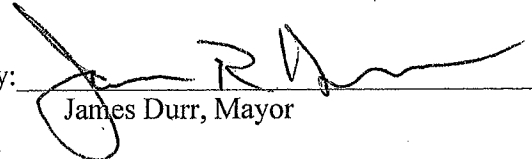
Copy: Mary Beth Lonergan, P.P., Court Master
Clarke, Caton & Hintz
100 Barrack Street
Trenton, NJ 08608-2008
mblonergan@cchnj.com

IN WITNESS WHEREOF, the parties hereto set their hands and seals as below:

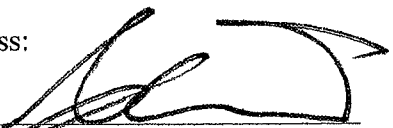
Witness: 

Municipal Clerk

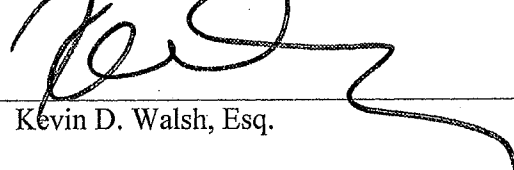
TOWNSHIP OF NORTH HANOVER

By: 

James Durr, Mayor

Witness: 

FAIR SHARE HOUSING CENTER

By: 

Kevin D. Walsh, Esq.

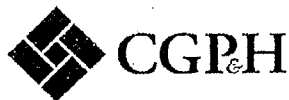
EXHIBIT "A"

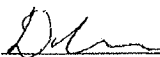
Housing Element

Fair Share Plan

TOWNSHIP OF NORTH HANOVER,
BURLINGTON COUNTY

December 17, 2008





Dave Gerkins, PP, AICP
New Jersey Professional Planner
License No. LI-005614

Foreword

According to the New Jersey Municipal Land Use Law, 40:55D-28b(3)), a municipal Master Plan must contain a Housing Element. Pursuant to Section C, 52:27D-310 a municipal housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs with particular attention to low and moderate income housing. This report includes the Townships's third round housing obligation (2004 to 2018) pursuant to Chapter 97, "Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning December 20, 2004." A calculation of the currently projected third round obligation and a Fair Share Compliance Plan to meet that obligation are included.

The Township of North Hanover previously submitted a Round III Housing Element and Fair Share Plan in December 2005 in accordance with the November 2004 COAH adopted Third Round Rules (Chapter 5:94). The Township of North Hanover has revised its plan and is petitioning COAH again because portions of these COAH rules were overturned in 2007. This new plan meets the revised COAH rules which became effective June 2, 2008 and amendments to those rules which became effective in October 2008. In addition, they also conform to new housing legislation signed by the Governor on July 17, 2008.

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Introduction

In 1975 the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate-income housing. In its 1983 Mt. Laurel II decision the Court expanded the Mt. Laurel doctrine and stated that all municipalities share in the obligation. In July 1985 the Fair Housing Act (FHA) was enacted as the legislative response to the Supreme Court rulings. The Act created the Council on Affordable Housing as the administrative alternative to the courts.

The FHA directs the New Jersey Council on Affordable Housing (COAH) to provide regulations that allow municipalities to prepare comprehensive responses which will provide a realistic opportunity for the provision of affordable housing through municipal land use regulation. COAH's primary responsibilities are:

- Establish Housing Regions for the State;
- Estimate regional housing need; and
- Provide guidelines for municipalities to use in addressing their fair share obligations.

Municipal responsibilities under the Fair Housing Act consist of adopting and filing with COAH a Housing Element, prepared according to COAH's criteria and guidelines. According to the New Jersey Municipal Land Use Law, C.52:27D-310, the Housing Element shall contain at least:

1. The inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next six years subsequent to the adoption of the Housing Element, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;
6. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

Township of North Hanover
HOUSING ELEMENT & FAIR SHARE PLAN

This Housing Element meets all of above requirements as specified in the latest addition of the Municipal Land Use Law, dated February 2008. This plan meets the guidelines of the revised COAH Round III rules and recently adopted State legislation.

I. Background Information

North Hanover Township consists of a land area of 17.4 square miles and is located in Burlington County, New Jersey, and shares borders with New Hanover Township, and Wrightstown. In 2000, the Township population was estimated to be 7,347 people, and had a population density of approximately 423.7 people per square mile.

HOUSING CHARACTERISTICS

Age of Housing

According to the 2000 Census, North Hanover has a total of 2,650 housing units with median age of 39 years. Approximately 206 units or 7.7% of the Township's units were built prior to 1940, and indicator that the municipality has a relatively small amount of homes in substandard condition. While the Township has a higher percentage of homes that could be considered to be in substandard conditions, when compared to New Hanover and Wrightstown, North Hanover has more housing units, and more homes built prior to 1940.

	North Hanover	New Hanover	Wrightstown	Burlington County
Total Housing Units:	2,650	1,397	339	161,311
Built 1999 to March 2000	21	13	0	4,004
Built 1995 to 1998	95	45	3	10,425
Built 1990 to 1994	177	39	4	12,138
Built 1980 to 1989	492	54	23	25,620
Built 1970 to 1979	472	243	74	32,103
Built 1960 to 1969	548	328	27	28,884
Built 1950 to 1959	502	502	99	21,774
Built 1940 to 1949	137	95	84	7,282
Built 1939 or earlier	206	78	25	19,081
Median year structure	1969	1961	1956	1971

Source: 2000 U.S. Census, Tables H34 and H35

Condition of Housing

The 2000 Census data shows that North Hanover's housing stock is well maintained with less than one percent or 26 units that lack complete plumbing facilities. The Township, along with neighboring Wrightstown, had no units that lack complete kitchen facilities. It also had the lowest percentage of crowded units (.34%) built prior to 1950. Overcrowding is defined by the U.S. Department of Housing and Urban Development as any unit with more than one person living per room.

Table 2: Condition of Housing

	North Hanover	New Hanover	Wrightstown	Burlington County
Total housing units	2,650	1,397	339	161,311
Lacking complete plumbing facilities	26	56	3	623
% Lacking complete plumbing facilities	0.98%	4.01%	0.88%	0.39%
Lacking complete kitchen facilities	0	119	0	657
% Lacking complete kitchen facilities	0%	8.52%	0%	0.41%
Crowded, Built Pre 1950	9	12	2	547
% Crowded, Built Pre 1950	0.34%	0.86%	0.59%	0.34%

Source: 2000 U.S. Census

Purchase or Rental Value of Housing

The median value for homes in North Hanover outpaced neighboring municipalities and the County. In 2000, the average cost for a house in the Township was \$160,900 compared to the County's median value of \$134,000. While North Hanover had the highest home median home value, it also had the lowest median rent when compared to its neighboring municipalities and the County.

Table 3: Purchase and Rental Value of Housing

	North Hanover	New Hanover	Wrightstown	Burlington County
Median contract rent	553	905	582	672
Median value	160,900	135,700	98,300	134,000

Source: 2000 U.S. Census, Tables H56, and H85

Occupancy Characteristics

The vacancy rate in North Hanover in 2000 was 6.49%, which is significantly higher than the County but the lowest when compared to neighboring New Hanover and Wrightstown. Rental units make up a large portion of units that are not occupied (172), compared to for sale units (30).

Table 4: Occupancy Characteristics of Housing

	North Hanover	New Hanover	Wrightstown	Burlington County
Total Housing Units	2,650	1,397	339	161,311
Occupied	2,478	1,170	311	154,371
Vacant	172	227	28	6,940
% vacant	6.49%	16.25%	8.26%	4.30%
For rent	172	227	28	2,226
For sale only	30	42	20	2,230
Rented or sold, not occupied	43	6	0	708
For seasonal, recreational, or occasional use	22	0	2	595
For migrant workers	0	0	0	0
Other vacant	0	0	0	1,181

Source: 2000 U.S. Census, Tables H6 and H8

Housing Type

Of the 2,478 occupied units, more than 51% of North Hanover's housing stock is owner occupied. The figure is higher than neighboring municipalities, but is 26 percentage points less than Burlington County at 77%. The table below also shows units with "selected conditions," defined by the U.S. Census as units as having at least one of the following conditions: (1) lacking complete plumbing facilities, (2) lacking complete kitchen facilities, (3) with 1.01 or more occupants per room, (4) selected monthly owner costs as a percentage of household income in 1999 greater than 30 percent, and (5) gross rent as a percentage of household income in 1999 greater than 30 percent. These figures indicate that 26.8% of North Hanover's owner occupied housing and more than 48.87% of the renter occupied housing has one or more of these selected conditions.

Table 5: Housing Tenancy & "Special Conditions"

	North Hanover	New Hanover	Wrightstown	Burlington County
Total units:	2,478	1,170	311	154,371
Owner occupied:	1,267	229	86	119,500
% Owner occupied	51.13%	19.57%	27.65%	77.41%
Owner occupied with one or more selected condition	339	80	23	30150
% of Owner occupied units with selected condition	26.76%	34.93%	26.74%	25.23%
Renter occupied:	1,211	941	225	34,871
% Renter occupied	48.87%	80.43%	72.35%	22.59%
Renter with one or more selected condition	187	132	101	12710
% of rental units with selected conditions	15.44%	14.03%	44.89%	36.45%

Source: 2000 U.S. Census, Tables HCT28

Housing Units

Approximately 36% of housing units in North Hanover are single-family detached units, which is comparable to New Hanover (39%) but is significantly more than Wrightstown (26%). Only Burlington County surpassed the Township by more than 28 percentage points.

Table 6: Units in Structure

	North Hanover	New Hanover	Wrightstown	Burlington County
Total Housing Units:	2,650	1,397	339	161,311
1, detached	954	543	88	104,299
1, attached	539	269	33	22,090
2	71	0	23	3,783
3 or 4	144	186	24	6,374
5 to 9	494	199	169	8,196
10 to 19	13	28	0	7,251
20 to 49	0	25	0	2,999
50 or more	7	147	2	3,810
Mobile home	428	0	0	2,477
Boat, RV, van, etc.	0	0	0	32
% 1, detached	36%	38.87%	25.96%	64.66%

Source: 2000 U.S. Census, Tables H 30

Existing Units in North Hanover's Affordable to Low-and-Moderate Income Households

In order to determine the number of existing housing units that are and are not affordable to low- and moderate-income households, the Township utilized COAH and Federal housing definitions of housing affordability as well as 2000 Census data to quantify this estimate.

These agencies use a threshold to define affordability based on housing expense as a percentage of monthly income for households receiving between 0% and 80% of Median Family Income (MFI). In general, households paying more than 30% of monthly income on housing expense are considered cost burdened. For renters, housing costs include rent plus utilities paid by the tenant. For owners, housing costs include the mortgage payment, property taxes, insurance, condominium or homeowner association fees and utilities.

Using 2000 Census data, the U. S. Department of Housing and Urban Development (HUD) has prepared a "Comprehensive Housing Affordability Strategy (CHAS)" study for communities which receive Federal housing funds. As a participant in the HUD-funded State Small Cities CDBG Program, this data is available for North Hanover. The data is summarized in the following table and is broken out by tenure type, household type (i.e., elderly, small family, large family, and other household), and by income category.

Table 7: CHAS Affordability Data for North Hanover

	Renters					Owners					
	Elderly (1 & 2 members) (A)	Small Related members (B)	Large Related (5 or more members) (C)	All (D)	Total Renters (E)	Elderly (1 & 2 members) (F)	Small Related (2 to 4 members) (G)	Large Related (5 or more members) (H)	All (I)	Total Owners (J)	Total House- holds (K)
Household by Type, Income, & Housing Problem											
Household Income <= 50% MFI	47	298	65	62	472	45	43	8	28	124	596
Household Income <=30% MFI	43	63	4	12	122	8	24	4	8	44	166
% with any housing problems	18.6	28.6	0.0	66.7	27.9	100.0	83.3	100.0	50.0	81.8	42.2
% Cost Burden >30%	18.6	22.2	0.0	66.7	24.6	100.0	83.3	100.0	50.0	81.8	39.8
% Cost Burden >50%	18.6	6.3	0.0	33.3	13.1	50.0	41.7	100.0	50.0	50.0	22.9
Household Income >30 to <=50% MFI	4	235	61	50	350	37	19	4	20	80	430
% with any housing problems	100.0	27.7	19.7	40.0	28.9	78.4	78.9	100.0	100.0	85.0	39.3
% Cost Burden >30%	100.0	19.1	13.1	40.0	22.0	78.4	78.9	100.0	100.0	85.0	33.7
% Cost Burden >50%	0.0	0.0	0.0	0.0	0.0	0.0	78.9	100.0	0.0	23.8	4.4

Source: CHAS Data Book, 2000

According to the 2000 Census, there are 2,650 housing units in the Township. Based on data from the CHAS table above, while there is a relatively small number of households considered to be cost burdened, their percentages are high for residents experiencing problems and have a high cost burden. For example, 78% of elderly owner-occupied units or 37 units, in the 30% to 50% of MFI income category are experiencing housing problems, and have a cost burden greater than 30% of their incomes. While nearly 80% of small related owner-occupied units in the 30% to 50% MFI income category have a cost burden of greater than 50% of their incomes.

DEMOGRAPHIC CHARACTERISTICS

Population Trends

The population of North Hanover has been in decline from 1980 to 2000. The Township has lost more than 19% of its population in a 20 year period. When compared, however, to New Hanover's loss of 44.97% and Wrightstown loss of 75.35%, the Township's population loss is significantly less.

The decrease in population in North Hanover from 1990 to 2000 is most likely the result of the realignment of Fort Dix and McGuire Air Force Base that occurred during the 1990s. (There is some question as to whether the area experienced the population loss to the degree indicated in the census figures. Nevertheless, these figures are presented here due to the lack of an alternate data source.) However, this trend of decreasing population is expected to reverse in response to the planned Megabase and new residential development. According to Delaware Valley Regional Planning Commission (DVRPC) projections, the population of North Hanover is expected to increase from 7,347 in 2000 to 8,380 (14.1%) in 2015 and 8,390 (14.2%) in 2025.

Table 8: Population Growth, 1980-2000

	North Hanover	New Hanover	Wrightstown	Burlington County
1980	9,050	14,258	3,031	362,542
1990	9,994	9,546	3,843	395,066
2000	7,325	9,834	747	423,394
% Growth (1980-2000)	-19.06	-44.97	-75.35	16.7

Source: 2000 U.S. Census, Tables P 1, 1990 U.S. Census P001

Household Size and Type

The average household size in North Hanover is 2.94 persons. The Township is comparable to neighboring New Hanover and Wrightstown.

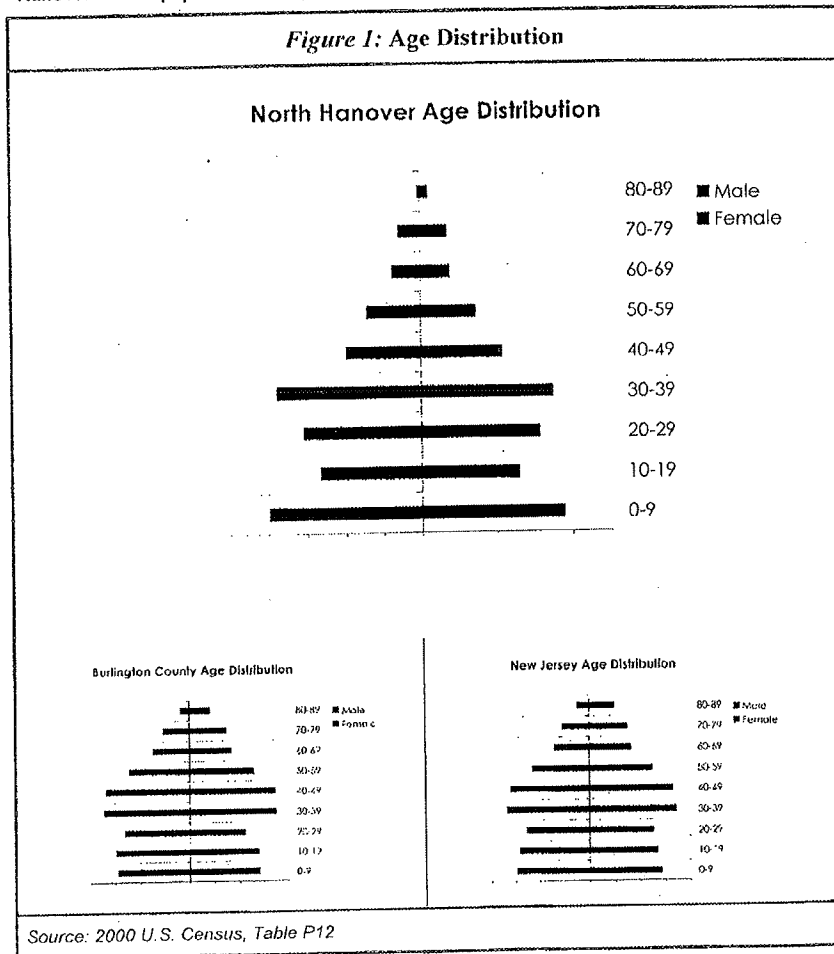
Table 9: Household Size & Type

	North Hanover	New Hanover	Wrightstown	Burlington County
Average household size--All Units	2.94	3.14	2.37	2.65
Average household size -- Owner occupied	2.74	2.96	2.51	2.77
Average household size -- Renter occupied	3.15	3.18	2.32	2.24
Total households	2,498	1,162	312	154,371
Family households	2,020	991	182	111,581
% Family households	80.86%	85.28%	58.34%	72.28%
Married-couple family	1673	908	88	89,052
% married couple family	66.97%	78.14%	28.21%	57.69%
Male householder, no wife present	113	40	15	5,744
Female householder, no husband present	234	43	79	16,785
Nonfamily households	478	171	130	3,292

Source: 2000 U.S. Census, Tables H17

Age Characteristics

The age-sex distribution of North Hanover's population as well as Burlington County and New Jersey is shown in the population pyramids in the following figure. The population profile does not differ significantly from the County profile, although the Township has a much younger median age (28.7 years) relative to Burlington County (37.1 years). In addition, North Hanover's male population is slightly larger than its female population.



	North Hanover	New Hanover	Wrightstown	Burlington County
Both sexes	28.7	32.1	31.2	37.1
Male	28.3	33.2	30	35.8
Female	29	24.7	31.6	38.4

Source: 2000 U.S. Census, Table P13

Income Level

The 1999 median income in North Hanover was \$39,988, making it less affluent than neighboring New Hanover and Burlington County. Only Wrightstown was less affluent when compared to North Hanover.

	North Hanover	New Hanover	Wrightstown	Burlington County
Median household income in 1999	\$39,988	\$44,386	\$27,500	\$58,608

Source: 2000 U.S. Census, Table P53

The 1999 income statistics indicate that incomes in North Hanover vary significantly in some categories when compared to Burlington County. For example, the Township had 17% of residents earning between \$15,000 and \$24,999 compared to the County's 8% in the same category.

Table 11: Household Income by Brackets, 1999

	Township of North Hanover		Burlington County
	Number of Households	% of Total	% of Total
Less than \$10,000	75	3.0	3.9
10,000 - 14,999	142	5.6	3.4
15,000 - 24,999	428	17.0	8.2
25,000 - 34,999	411	16.3	10.2
35,000 - 49,999	450	17.9	15.4
50,000 - 74,999	493	19.6	23.2
75,000 - 99,999	290	11.5	15.5
100,000 - 149,999	188	7.5	13.7
150,000 +	38	1.5	6.4

Source: 2000 U.S. Census

The COAH regulations define low (those earning up to 50% of the median household income) and moderate-income households (those earning from more than 50% to 80% of the median household income). The figures are adjusted for household size and the municipality's housing region. North Hanover is part of Region Five, which includes Burlington, Camden and Gloucester Counties. Below is a breakdown of the maximum 2008 income figures by household size that COAH uses to determine affordability for the region.

Table 12: COAH 2008 Regional Income Limits (Region 5)

Income	Family Size									
	1	1.5	2	3	4	4.5	5	6	7	8
Median	\$52,010	\$55,725	\$59,440	\$66,870	\$74,300	\$77,272	\$80,244	\$86,188	\$92,132	\$98,076
Moderate	\$44,608	\$44,580	\$47,552	\$53,496	\$59,440	\$61,818	\$64,195	\$68,950	\$73,706	\$78,461
Low	\$26,005	\$27,863	\$29,720	\$33,435	\$37,150	\$38,636	\$40,122	\$43,094	\$46,066	\$49,038
Very Low	\$15,603	\$16,718	\$17,832	\$20,061	\$22,290	\$23,182	\$24,073	\$25,856	\$27,640	\$29,423

Source: COAH, 2008

Employment Status of Residents

North Hanover's population of residents who worked 35 hours or more in 1999 (66.15%) is comparable to neighboring municipalities, but almost eight percentage points higher than the County. The Township, however, did have the lowest percentage that did not work (18.8%) when compared to New Hanover (50.7%) and Wrightstown (25.3%).

	North Hanover	New Hanover	Wrightstown	Burlington County
Usually worked 35 or more hours per week	3,332	5,329	328	192,981
% of the population that worked 35 or more hours per week	66.15%	62.85%	60.29%	58.7%
Usually worked 34 hours or less hours per week	758	593	78	47,093
Did not work in 1999	947	2566	138	88,833
% of the population that did not work in 1999	18.8%	50.74%	25.37%	27.0%
<i>Source: 2000 U.S. Census, Table P47</i>				

ECONOMIC CHARACTERISTICS

In-Place Employment by Industry Sectors and Number of Persons Employed

According to table 15, North Hanover's main source of employment is wholesale and retail trade, which employs 478 people. Employment in this sector is comparable to the County (16.4%). Services (12.3%) and manufacturing (8.8%) are also large employers within the Township.

Table 15: Percent Distribution of Employment by Industry, 2000

Sector	North Hanover		New Hanover	Wrightstown	Burlington County
	Jobs	%	%	%	%
1 - Agriculture, Forestry, Fisheries, & Mining	48	1.7	0.7	0	.4
2 - Construction	199	7.0	4.2	8.0	5.6
3 - Manufacturing	252	8.8	6.0	10.3	11.0
4 - Transportation, Warehousing & Utilities	232	8.1	7.0	6.2	5.6
5 - Wholesale & Retail Trade	478	16.7	11.8	15.0	16.4
6 - Information & Finance, Insurance, Real Estate	239	8.4	5.5	4.7	11.8
7 - Services	350	12.3	7.4	23.3	41.6
8 - Public Administration	240	8.4	14.5	11.5	7.0

Source: New Jersey Department of Labor

The Sykesville Road area is in decline with an increasing number of vacant and underused properties. According to DVRPC projections, the number of jobs in North Hanover is expected to decrease from 782 in 2000 to 757 (-3.2%) in 2015 and 623 (-20.3%) in 2025. However, this downward trend could reverse as a result of the 2005 announcement of the Megabase which will result in an initial investment of over \$300 million in the bases. The Department of Defense privatization of its military housing will rehabilitate units, raze existing substandard units and construct new housing by 2011.

II. ANALYSIS OF IMPACT OF EXISTING CONDITIONS ON AFFORDABLE HOUSING OPPORTUNITIES

AVAILABILITY OF EXISTING AND PLANNED INFRASTRUCTURE

Most of North Hanover is served by private septic systems. The Township's plans to concentrate future development in the villages of Sykesville and Cookstown (see below) create the need for upgrades to existing wastewater treatment systems or new systems entirely. It is estimated that the neighboring Wrightstown sewage plant has an excess capacity of 65,000 GPD. This could accommodate a significant portion of the wastewater generated by the Sykesville redevelopment area. The Jacobstown village would most likely continue to utilize individual septic systems.

ANTICIPATED DEMAND OF TYPES OF USES PERMITTED BY ZONING

North Hanover is in the process of updating its zoning ordinance to permit the non-contiguous parcel clustering described in the "Anticipated Land Use Patterns" section below. Non-contiguous parcel clustering is a planning and zoning tool developed to allow for the transfer of density between two non-contiguous parcels. The non-contiguous parcels must be limited to planned developments and they must be developed as a single entity. To implement non-contiguous parcel clustering, the zoning the RA Rural agricultural area will be changed to 1 dwelling unit per 25 acres, which is the size generally agreed upon to support a viable working farm that can support a family. This change will preserve the agricultural lifestyle in North Hanover and prevent the subdivision of large working farm areas into large residential subdivisions. In the long term, this area will be the sending or transfer zone for the Transfer of Development Rights (TDR) program.

The owner of the parcel proposed for preservation must deed restrict, in perpetuity, the land from further development and may retain ownership of the land holding only the farming or open space rights of the land. The preserved land may be resold for the express use of only farming or open space purposes.

In order to address the loss of owner equity resulting from this zoning change, parcels in the RA Rural Agricultural zone will have an additional development option, which is non-contiguous parcel clustering. Under the Non-contiguous parcel clustering scenario, a developer may purchase development units to develop the floating zone at a greater than the 1 dwelling unit per 25 acres zoning. The minimum lot size in the floating zone will be one dwelling unit per acre. North Hanover Township envisions the RA district becoming sending areas under TDR. A parcel less than 10 acres in size will retain the original zoning of two to five acres.

The purchase of one development unit from the sending parcel will allow for the development of one additional unit in the receiving area. This transfer of density will not result in any net increase in development in comparison to current zoning in the RA Rural Agricultural Zone. The number of development units and by-right zoning will be determined by the build out analysis.

ANTICIPATED LAND USE PATTERNS

North Hanover completed a Land Use Plan element in 2008 to implement the goals of its recent Master plan Reexamination. The rural, agricultural character of North Hanover Township is threatened on many fronts, including increasing market pressures for residential development and the recently announced "Fort Dix-McGuire-Lakehurst Megabase." The Land Use Plan focuses on preserve agricultural land in the Township while also concentrating development in the appropriate areas with existing development such as the Sykesville Road corridor near Wrightstown and the Cookstown and Jacobstown villages. These dual goals of preserving agricultural areas while also steering development are complimentary and will accommodate the anticipated growth pressures in North Hanover while preserving the rural, agricultural character of the Township. Four tools are being pursued simultaneously to address these two goals:

State and County Farm Land Preservation Programs: The Township continues to work with Burlington County and the State farmland preservation programs to preserve as much agricultural land as possible through preservation easements and, in some cases, fee simple purchases of land. North Hanover has already preserved 3,350 acres of farm land through this process and the success of the program is discussed further under the current land use section. Despite the success of the farm land preservation programs, they can no longer be the sole preservation approach in the Township because of the high cost of farmland preservation as well as its reliance on landowner voluntary participation. In addition, farmland preservation programs do not address the need to increase densities in the areas targeted for development or redevelopment in North Hanover.

Burlington County/State Transfer of Development Rights (TDR): The Burlington County Program, initiated in 1989 and the State Program, which began in 2005, provide a mechanism to manage growth by "transferring" it from areas to be preserved for agricultural or open space purposes, to areas which are best suited for development, i.e., access to sewer, existing development. The TDR program will provide an important mechanism to achieve the goals of the Land Use Plan. However, TDR requires many planning studies and extensive coordination with several State agencies. The TDR planning process is expensive and typically takes between 3-5 years to implement. North Hanover faces the very real threat of losing valuable agricultural land to development pressures during the TDR planning period. This would not only result in the loss of the agricultural character of North Hanover but could also preclude the successful redevelopment of the Sykesville Road area. Even though this is a time consuming process and cannot be the total answer or approach for the Township, North Hanover is pursuing grant opportunities to begin the TDR planning process, because it does represent a long term solution to meeting the needs of the community.

Non-Contiguous Parcel Clustering (NCPC): The Municipal Land Use Law gives municipalities the authority to create a zoning form, which permits density to be transferred from one parcel to another non-contiguous parcel within a planned development. This allows for some lands to be preserved while others are developed at higher densities. NCPC must be undertaken in the context of a planned development and properties in the sending and receiving areas must be developed as a single entity. North Hanover will use this tool to preserve farmland while simultaneously moving forward with the TDR and farmland preservation processes. The disadvantage is that North Hanover will have less control over the process than with TDR, but it serves as a better interim step while waiting for the TDR process to complete, than to proceed

without using this tool. The end result may be the development of some agricultural land into residential subdivisions in order to preserve other agricultural areas. While this is not the vision of the Master Plan or Land Use Plan, it is considered better than the alternative, which is to maintain the current zoning that encourages uncontrolled development, while the TDR planning process moves forward. The build out analysis completed for the Land Use Element illustrates the need for revised zoning since it projects that approximately 1,000 new homes could be built in North Hanover under the current zoning.

Sykesville Redevelopment Area: The Sykesville Road corridor near Wrightstown has been determined to be "an area in need of redevelopment." This designation will allow for a redeveloper to be chosen to implement the vision of the Master Plan Reexamination Report and this Land Use Plan. The area will likely be developed as a mixed-use village area with a variety of single family lot sizes, multi-family housing, commercial services, and public uses. The uses and densities desired for the redevelopment area will require waste water treatment infrastructure.

MUNICIPAL ECONOMIC DEVELOPMENT POLICIES

The Township is committed to economic development policies which continue to support the predominant agricultural economy in the Township. These policies include the zoning tools described above as well as the pursuit of TDR.

The Township is also committed to the revitalization of the Sykesville Road corridor, which is the Township's most significant business corridor. This area, located adjacent to Wrightstown and Fort Dix has suffered from disinvestment and there are many closed shops. The area has been determined to be in need of redevelopment. A redevelopment plan is being drafted which will revitalize the area and also support the community's goal to preserve agricultural areas.

CONSTRAINTS ON DEVELOPMENT AND EXISTING OR PLANNED MEASURES TO ADDRESS THESE CONSTRAINTS

Development in North Hanover is constrained by the lack of waste-water treatment as well as the Township's commitment to preserving agricultural land uses in the Township.

These constraints are being addressed by implementing non-contiguous parcel clustering in the Township and pursuing TDR in the long term. These approaches will concentrate development and preserve agricultural land.

CONSIDERATION OF LAND MOST APPROPRIATE FOR CONSTRUCTION OF LOW AND MODERATE INCOME HOUSING

The Township's Land Use plan has identified that the three potential TDR receiving areas (Sykesville, Jacobstown, and Cookstown areas) should include the provision of affordable housing. This is more appropriate and more cost effective than including affordable units in the floating zones provided for under the non-contiguous parcel clustering.

III. Fair Share Compliance Plan

The Fair Share Compliance Plan is the implementation plan for meeting North Hanover's projected round three affordable housing obligation. The Plan represents the current strategy that North Hanover intends to implement, following COAH certification, but is also an amendable plan, that will change, as circumstances and developments unfold from now through 2018. Therefore, it will almost certainly require, not unlike other Fair Share Compliance Plans throughout New Jersey, several amendments throughout the life of this Plan.

The Township's plan for meeting its anticipated affordable housing obligation through 2018 is summarized in the attached COAH application forms and described in more detail in the following sections.

AFFORDABLE HOUSING OBLIGATION

North Hanover's affordable housing obligation is summarized and detailed below. Worksheet A was utilized to determine North Hanover's growth share obligation because the Township's growth is not projected to be higher than the 21 units projected by COAH, even when planned redevelopment is taken into consideration.

Rehab Share: 16 unit obligation

Prior Round: 1 unit obligation

Projected Growth Share: 21 unit obligation

REHABILITATION

North Hanover Township has an obligation to rehabilitate sixteen units. The Township has received credit for the rehabilitation of two units through the Burlington County Owner-Occupied Rehabilitation loan program. (An additional ten units were also rehabilitated through this program but these units are not eligible for COAH credit.)

This leaves a remaining obligation of 14 units. North Hanover will utilize development fees and apply for a grant through the State's Small Cities Program for additional housing rehabilitation funds. The program will be open to both owner occupied and rental occupied housing units. In the event that Small Cities funds are not available, the remaining 14 unit rehabilitation obligation will be satisfied by credits from the three projects described further below. This is permitted under N.J.A.C. 5:97-6.2(b)7 which states "Pursuant to N.J.A.C. 5:97-4.3, units that are eligible to receive new construction credit may be used to address a municipal rehabilitation share." Additional details are provided on the COAH Application form.

MILLSTREAM APARTMENTS NORTH

Millstream Apartments North, which is located at 202 Croshaw Road (Block 603, Lot 10), consists of 48 affordable one-bedroom rental units, all of which are affordable. Occupancy of this building commenced on June 1, 1986. The complex, which consists of six buildings encompasses 5.5 acres and has a density of 8.7 units per acre. The complex contains a mix of very low, low, and moderate income units. The distribution of low and moderate income tenants may vary slightly from year to year. Currently, forty-six units are occupied by low-income tenants and two units are occupied by moderate income tenants. The loan on Millstream

Apartment North expires on May 20, 2036 and is subject to federal affordability regulations until that time. COAH has certified 48 units in this complex as credit worthy. Additional details are provided on the COAH Application form.

MILLSTREAM APARTMENTS SOUTH

Millstream Apartments South, which is situated at 18 Jonesmill Road (Block 603, Lot 29) began occupancy on May 1, 1982. The complex consists of 40 rental units, all of which are affordable. There are five units in the building with a total of 32 three bedroom units and eight one-bedroom units. Similar to the Millstream Apartments North, the distribution of low and moderate income tenants can vary slightly from year to year. Presently, 39 units are occupied by low income tenants and one is inhabited by a moderate income tenants. The loan will expire on Millstream Apartments South on April 14 2032 and the units are subject to federal affordability regulations until that time. COAH has certified all 40 units in this complex. Additional details are provided on the COAH Application form.

MAPLEWOOD APARTMENTS

Maplewood Apartments are located at 42 Meany Road (Block 800, Lot 68). The complex received its certificate of occupancy on September 15, 1985 and is comprised of 40 rental units, all of which are affordable. The distribution of low to moderate income tenants may vary slightly from year to year. Currently, there are 31 low income units and nine moderate income units. The loan will expire on Maplewood Apartments on September 15, 2035. The property is subject to federal affordability regulations until this time. COAH has certified all 40 units in this complex. Additional details are provided on the COAH Application form.

Table 16: Summary of North Hanover's Fair Share Plan

<i>Rehabilitation Obligation</i>	<i>16</i>	
Existing rehab credits	2	Completed through the Burlington County Owner-Occupied Rehabilitation loan program
Small Cities Program	14	Owner and rental occupied program
<i>Total Rehab Credits</i>	<i>16</i>	
<i>Prior Round Obligation</i>	<i>1</i>	
Millstream Apts North	1	Existing project. Unit will address prior round
<i>Prior Round Total credits</i>	<i>1</i>	
<i>Growth Share Obligation</i>	<i>21</i>	<i>3 of these units must be very low income</i>
Millstream Apts North	47	Existing family rental project. Units will address Growth Share obligation. (At least one unit is very low income)
Millstream Apts South	40	Existing family rental project. Units will address Growth Share obligation. (At least one unit is very low income)
Maplewood Apts	40	Existing family rental project. Units will address Growth Share obligation. (At least one unit is very low income)
Bonus Credits	5	Maximum bonus credits allowed. Rental bonus
<i>Growth Share Total credits</i>	<i>132</i>	At least three of these credits are very low income.
<i>Surplus Credits</i>	<i>111</i>	

IV. CONCLUSION

Under the round three growth share rules, put into place on June 2, 2008, addressing affordable housing is a long term, ever changing process, as it is based on actual growth. This is a stark difference from rounds one and two, when there was a given obligation number to work against, and that given number would not change during the entire term. On the contrary, under round three rules, the obligation changes with each actual construction project, residential and non-residential alike.

As a result, the Township will review and recalculate its projected obligation, at least annually, in order to continually refine and update projections based on what has actually been built, and to update projections based on new information concerning likely development projects and their impacts. An annual review will also help to ensure that the Township maintains an appropriate balance between its affordable housing activities and its actual and most recently planned developments.

The Sykesville Road area has been determined an area in need of redevelopment and the Township is in the process of drafting its redevelopment plan for the area. In addition, the Township plans on pursuing a transfer of development rights (TDR) program that will preserve agricultural and environmentally sensitive areas in the Township. The Township envisions development will be concentrated in the Sykesville Road area, Jacobstown, and the Cookstown area. As these planning efforts move forward, the Township will require that redevelopment areas include affordable housing. This is a challenge since developers will already be given the rights to increase density through the TDR program.

1. Planning Board Resolution

Resolution 2008-25

WHEREAS, the Land Use Board of the Township of North Hanover, Burlington County, State of New Jersey, adopted its current Master Plan Reexamination Report pursuant to N.J.S.A. 40:55D-28 on July 12, 2006; and

WHEREAS, the Master Plan includes a Housing Element pursuant to N.J.S.A. 40:55D-28b(3); and

WHEREAS, N.J.A.C. 5:94-2.2(a) requires the adoption of the Housing Element by the Land Use Board and endorsement by the Governing Body; and

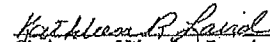
WHEREAS, N.J.A.C. 5:94-4.1(a) requires the preparation of a Fair Share Plan in accordance with the Housing Element of the Master Plan; and

WHEREAS, N.J.A.C. 5:94-4.1(b) requires the adoption of the Fair Share Plan by the Land Use Board and endorsement by the Governing Body; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Land Use Board of the Township of North Hanover held a public hearing(s) on the Housing Element and Fair Share Plan on December 17, 2008; and

WHEREAS, the Land Use Board has determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Township of North Hanover's 2000 Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Land Use Board of the Township of North Hanover, State of New Jersey, that the Land Use Board hereby adopts the December 17, 2008 Housing Element and Fair Share Plan.


Chairman of Planning Board

I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of the Township of North Hanover, Burlington County on December 17, 2008.


Planning Board Secretary

**2. Resolution of the Council
petitioning COAH for Substantive
Certification of its adopted
Housing Element and Fair Share
Plan**

**TOWNSHIP OF NORTH HANOVER
COUNTY OF BURLINGTON, STATE OF NEW JERSEY
RESOLUTION 2008-155**

RESOLUTION PETITIONING NJ COAH FOR SUBSTANTIVE CERTIFICATION

WHEREAS, the Land Use Board of the Township of North Hanover, Burlington County, State of New Jersey, adopted the Housing Element of the Master Plan on December 17, 2008; and

WHEREAS, a true copy of the resolution of the Land Use Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:95-2.2(a)2; and

WHEREAS, the Land Use Board adopted the Fair Share Plan on December 17, 2008; and

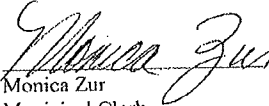
WHEREAS, a true copy of the resolution of the Land Use Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:95-2.2(a)2.

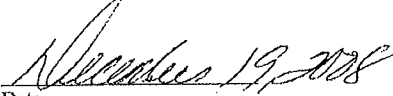
NOW THEREFORE BE IT RESOLVED that the Governing Body of the Township of North Hanover, Burlington County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Township of North Hanover Land Use Board; and

BE IT FURTHER RESOLVED that the Governing Body of the Township of North Hanover, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:95-3.2, submits this petition for substantive certification of the Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

BE IT FURTHER RESOLVED that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:95-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Township of North Hanover municipal clerk's office located at 41 Schoolhouse Road, Jacobstown, New Jersey 08562 during the hours of 9:00 a.m. to 4:30 p.m. on Monday through Friday for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:95-3.5.


Monica Zur
Municipal Clerk


Date

4. Growth Share Determination Worksheet A

Workbook A: Growth Share Determination Using Published Data
 (Using Appendix F(2), *Allocating Growth To Municipalities*)

COAH Growth Projections Must be used in all submissions

Municipality Name: North Hanover

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated. Use these figures in the Application for Substantive Certification.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2) *	62	142
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
built or projected to be built post 1/1/04		
Inclusionary Development	0	
Supportive/Special Needs Housing	0	
Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	0	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))		
Affordable units	0	
Associated Jobs		0
4 Net Growth Projection	62	142
5 Projected Growth Share (Conversion to Affordable Units Dividing Households by 5 and Jobs by 16)	12.40 Affordable Units	8.88 Affordable Units
6 Total Projected Growth Share Obligation		21 Affordable Units

* For residential growth, see Appendix F(2), Figure A.1, Housing Units by Municipality. For non-residential growth, see Appendix F(2), Figure A.2, Employment by Municipality.

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: **North Hanover**

Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	0
Accessory Apartments	0
Municipally Sponsored and 100% Affordable	0
Assisted Living	0
Other	0
Total	0

Market and Affordable Units in Prior Round Inclusionary Development

Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
		0			0
		0			0
		0			0
		0			0
		0			0
Total		0	0	0	0

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
	0	0
	0	0
	0	0
	0	0
Total	0	0

[Return To Workbook A Summary](#)

5. Development Fee Ordinance

Council on Affordable Housing

AN ORDINANCE OF THE TOWNSHIP OF NORTH HANOVER AMENDING ORDINANCE 1996-02, AMENDING CHAPTER 8, SECTION 8-070 OF THE "REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF NORTH HANOVER, 1994."

ORDINANCE 2008-15

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.
- b) Township of North Hanover shall not spend development fees until COAH has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

- v. **"Equalized assessed value"** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. **"Green building strategies"** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Non-residential Development fees

- a) **Imposed fees**
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) **Eligible exactions, ineligible exactions and exemptions for non-residential development**
 - i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c.46 shall file a copy of the Form N-RDF with the local government.

residential development fees under these circumstances may be enforceable by Township of North Hanover as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For 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 building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Township of North Hanover 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) The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- i) **Appeal of development fees**
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and

days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Township of North Hanover. 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.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and 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 affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with North Hanover's affordable housing program.
- c) Within seven days from the opening of the trust fund account, the Township of North Hanover shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of North Hanover's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing 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

provide affordability assistance to those households earning 30 percent or less of median income by region.

- i. 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.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner may entitle the Township of North Hanover to bonus credits pursuant to N.J.A.C. 5:97-3.7.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Township of North Hanover may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
 - e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) The Township of North Hanover shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with North Hanover's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

- a) The ability for the Township of North Hanover to impose, collect and expend development fees shall expire with its substantive certification unless the Township of North Hanover has filed an adopted Housing Element and Fair Share

North Hanover retroactively impose a development fee on such a development.
The Township of North Hanover shall not expend development fees after the
expiration of its substantive certification or judgment of compliance.

NOTICE

The foregoing ordinance was finally adopted by the Township Committee of the Township of North Hanover on December 18, 2008 after a public hearing held at the Municipal Building on Schoolhouse Road in the Township of North Hanover, County of Burlington, State of New Jersey.



MONICA L. ZUR, RMC
Municipal Clerk

6. Spending Plan

North Hanover Affordable Housing Trust Fund Spending Plan

INTRODUCTION

The Township of North Hanover has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was submitted to COAH on December 31, 2008 and was based on the model document provided. The ordinance will be adopted in January 2009. The ordinance establishes the Township of North Hanover affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, the Township of North Hanover has collected \$203,541.80 in funds to date and it has not expended any funds, resulting in a balance of \$203,541.80. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Beneficial Bank, Chesterfield, New Jersey for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Township of North Hanover considered the following:

- (a) Development fees:
 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
 3. Future development that is likely to occur based on historical rates of development.

PROJECTED REVENUES-HOUSING TRUST FUND - 2008 THROUGH 2018												
SOURCE OF FUNDS	7/18/08 Through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:	\$199,429	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$350,869
1. Approved Development	\$199,429	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$199,429
2. Development Pending Approval	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
3. Projected Development	\$0	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$35,144	\$351,440
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other Funds (Specify source(s))	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(d) Interest	\$4,112	\$703	\$703	\$703	\$703	\$703	\$703	\$703	\$703	\$703	\$703	\$11,142
Total	\$203,541	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$35,847	\$562,011

The Township of North Hanover projects a total of \$558,470 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Township of North Hanover:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Township of North Hanover's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The Township of North Hanover, with the exception of the mandatory affordability assistance, and 20% for administration, will dedicate the remainder of any development fees collected to offset the cost of the rehabilitation program.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

The Township of North Hanover will dedicate \$250,000 to rehabilitation or new construction programs (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: \$250,000. The Township will use development fees in combination with Small Cities funding to address its rehabilitation obligation.

New construction project(s): \$0. No new construction programs are planned.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

Actual development fees through 7/17/2008		\$199,429
Actual interest earned through 7/17/2008	+	\$4,122
Development fees projected* 2008-2018	+	\$351,440
Interest projected* 2008-2018	+	\$7,030
Less housing activity expenditures through 6/2/2008	-	\$0
Total	=	\$562,011
30 percent requirement	x 0.30 =	\$168,606
Less Affordability assistance expenditures through 12/31/2004	-	\$0
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018	=	\$168,606
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018	÷ 3 =	\$56,202

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

The Township of North Hanover will dedicate \$233,328 from the affordable housing trust fund to render units more affordable, including \$56,202 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

The Township of North Hanover intends to utilize the full affordability assistance set-aside to administer its refrigerator replacement program, which has been approved by COAH previously.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

The Township of North Hanover projects that \$78,683 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

The Township of North Hanover will utilize 20% of the development fee to assist with its Administrative Agent, monitoring and planning responsibilities. A portion of the funds may be used to offset other administrative costs such as accounting, bookkeeping, reporting, etc.

4. EXPENDITURE SCHEDULE

The Township of North Hanover intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Program	Number of Units Projected	Funds Expended and/or Dedicated 2005- July 17, 2008	7/18/08 - 12/31/08	PROJECTED EXPENDITURE SCHEDULE 2009 -2018													Total	
				2009	2010	2011	2012	2013	2014	2015	2016	2017	2018					
Rehab	14	0	0	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$250,000	
Total Programs	14	0	0	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$31,250	\$330,000	
Affordability Assistance			0	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$25,926	\$333,328
Administration			0	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$8,742	\$78,683
Total		00	0	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$65,918	\$34,667	\$562,011

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Township of North Hanover has adopted a resolution agreeing to fund any shortfall of funds required for implementing its housing rehabilitation program. In the event that a shortfall of anticipated revenues occurs, the Township of North Hanover will pass a resolution of intent to bond. A copy of the adopted resolution is attached.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to expand the existing housing rehabilitation program.

6. BARRIER FREE ESCROW

No Barrier free escrow funds are expected to be collected or distributed because no new affordable units are planned at this time. Collection and distribution of barrier free funds shall be consistent with the Township of North Hanover's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

SUMMARY

The Township of North Hanover intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated December 17, 2008.

The Township of North Hanover has a balance of \$203,541 as of July 17, 2008 and anticipates an additional \$358,480 in revenues before the expiration of substantive certification for a total of \$562,021. The municipality will dedicate \$250,000 towards the rehabilitation program, \$233,338 to render units more affordable, and \$78,683 to administrative costs. Any shortfall of funds will be offset by local bonding. The municipality will dedicate any excess funds toward expansion of its existing housing rehabilitation program.

SPENDING PLAN SUMMARY	
Balance as of July 17, 2008	\$203,541
PROJECTED REVENUE July 18, 2008-2018	
Development fees	+ \$351,440
Payments in lieu of construction	+ \$0
Other funds	+ \$0
Interest	+ \$7,030
TOTAL REVENUE	= \$562,011
EXPENDITURES	
Funds used for Rehabilitation	- \$0
Funds used for New Construction	
1. Rehabilitation Program	- \$250,000
2.	- \$
3.	- \$
4.	- \$
5.	- \$
6.	- \$
7.	- \$
8.	- \$
9.	- \$
10.	- \$
Affordability Assistance	- \$233,338
Administration	- \$78,683
Excess Funds for Additional Housing Activity	= \$0
1.	- \$
2.	- \$
3.	- \$
TOTAL PROJECTED EXPENDITURES	= \$562,011
REMAINING BALANCE	= \$0.00

Due to an oversight, the Township of North Hanover has not established a separate trust fund for the collection of development fees. This will be addressed immediately in 2009.

7. Affordable Housing Ordinance

Council on Affordable Housing

Township of North Hanover Affordable Housing Ordinance

AN ORDINANCE OF THE TOWNSHIP NORTH HANOVER TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

Section 1. Affordable Housing Obligation

- (a) 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 households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Township of North Hanover 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 Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Township of North Hanover shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97 as may be amended and supplemented.
- (d) The Township of North Hanover shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the North Hanover Municipal Building, Municipal Clerk's Office, [insert address], New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

Section 2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

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

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

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

"Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

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

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

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

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

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

of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the median household income.

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

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

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

"Median income" means the median income by household size for the applicable county, as adopted annually by COAH.

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

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

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between 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 beneficiary and the transfer of ownership by court order.

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

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

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

Section 3. Affordable Housing Programs

The Township of North Hanover has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

(a) A Rehabilitation program.

1. Township of North Hanover’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.
2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
3. 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.
4. The Township of North Hanover shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
5. The Township of North Hanover shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of North Hanover.
6. The Township of North Hanover shall designate, subject to the approval of COAH, 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 COAH. 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).
7. 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:

- i. 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.
- ii. 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.
- iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
- iv. 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.

Section 4. Reserved

Section 5. Reserved

Section 6. Reserved

Section 9. Affirmative Marketing Requirements

- (a) Township of North Hanover shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also 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 all marketing activities toward COAH Housing Region 5 and covers the period of deed restriction.
- (c) *Optional.* The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region [insert number] comprised of [insert counties].
- (d) The Administrative Agent designated by the Township of North Hanover shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (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 process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Township of North Hanover.

Section 10. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 11. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Township of North Hanover elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (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.
- (d) At the time of the first sale of the unit, the 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 requirements of 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 that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 12. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

- (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 method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 13. Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

Section 14. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

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

Section 15. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Township of North Hanover elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (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 *[insert name of county]*. 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 or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure.

Section 16. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, 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 five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 17. Tenant Income Eligibility

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

Section 18. Administration

- (a) The position of Municipal Housing Liaison (MHL) for Township of North Hanover is established by this ordinance. The *[insert name of the governing body or the chief executive, if applicable]* shall make the actual appointment of the MHL by means of a resolution *[or a letter in the case of a chief executive]*.
1. The MHL must be either a full-time or part-time employee of Township of North Hanover.
 2. The person appointed as the MHL must be reported to COAH for approval.

3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.

****NOTE:** if the MHL position is one that will always be included in the job description for a particular position in the local staff, e.g. Township Clerk, that position can be named in this ordinance.

4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of North Hanover, including the following responsibilities which may not be contracted out to the Administrative Agent:

- i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- ii. The implementation of the Affirmative Marketing Plan and affordability controls.
- iii. When applicable, supervising any contracting Administrative Agent.
- iv. Monitoring the status of all restricted units in the Township of North Hanover's Fair Share Plan;
- v. Compiling, verifying and submitting annual reports as required by COAH;
- vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
- vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

- (b) The Township of North Hanover shall designate by resolution of the Township Committee, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.

- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

****NOTE:** If it is decided that an employee of the municipality will act as administrative agent or if the Housing Affordability Service (HAS) of the Agency is selected, the determination of such can be included in this ordinance.

- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

2. Affirmative Marketing;
2. Household Certification;
3. Affordability Controls;
4. Records retention;
5. Resale and re-rental;
6. Processing requests from unit owners; and
7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 19. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for a violation that remains uncured for a period of 60 days after service of the written notice:
 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found 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:
 - i. A fine of not more than [insert amount] or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of North Hanover Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.
- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the