

Regular Public Meeting of the Englewood Cliffs
Planning Board Minutes
February 12,2026

The Regular Meeting of the Englewood Cliffs Planning Board was called to order by Chairman Porrino at 7:32 pm.

Roll Call:

Present:

Chairman Porrino
Vice Chairwoman Mrs. O'Shea
Mr. Kim
Mr. You
Mrs. Rizvi – 1st Alternate
Mr. Lee – Borough Representative
Mr. Woo – Mayor Designee
Councilwoman Biegacz

Absent:

Ms. Correra
Mrs. Villari
Mrs. Zamecki – 2nd Alternate
Mayor Park

Present:

Mr. Tim Wiss Esq., of Randall & Randall, LLP, the planning board's attorney.
Mr. Craig Zimmerman, of Colliers Engineering, the planning board's engineer.
Mr. Michael Mistretta, Harbor Consultants, the planning board's conflict planner.

Flag Salute

Oath of office for appointment of William Woo as Mayor Designee

Public notice of this regular meeting has been given in compliance with the Open Public Meeting Law by advertisement in The Record, notification to The Press Journal, and posting of notice on the municipal website at www.EnglewoodCliffsNJ.org and posting on the entrance of the borough hall building at 482 Hudson Terrace, Englewood Cliffs, NJ.

Chairman Porrino requested a motion for the December 11, 2025, regular meeting minutes. Motion was made by Mrs. O'Shea and seconded by Mr. Lee with a roll call vote. (5) Ayes, Mrs. O'Shea, Mr. You, Mr. Lee, Councilwoman Biegacz, and Chairman Porrino. No Nays, No Abstentions.

Chairman Porrino requested a motion for the January 8, 2026, reorganization meeting minutes. Motion was made by Mrs. O'Shea and seconded by Mr. Lee with a roll call vote. (6) Ayes, Mrs. O'Shea, Mr. Kim, Mr. You, Mr. Lee, Councilwoman Biegacz, and Chairman Porrino. No Nays, No Abstentions.

Chairman Porrino requested a motion for the January 8, 2026, regular meeting minutes. Motion was made by Mrs. O'Shea and seconded by Mr. Lee with a roll call vote. (5) Ayes, Mrs. O'Shea, Mr. You, Mr. Lee, Councilwoman Biegacz, and Chairman Porrino. No Nays, No Abstentions.

Old Business:

Application #345K - Commercial Site Plan Approval
Englewood Hospitality, LLC – 495 Sylvan – Block 512 Lot 3
Resolution – Approval

Chairman Porrino stated that the applicant has requested to have the resolution carried to complete additional information requested by the board prior to adoption of the resolution.

Application #349K - Commercial Sign Variance
45 Sylvan Ave., LLC – 45-47 Sylvan Ave. – Block 207 – Lot 5
Resolution – Approval

Chairman Porrino requested a motion to adopt the resolution. Motion was made by Mrs. O'Shea and seconded by Councilwoman Biegacz with a roll call vote. (6) Ayes, Mrs. O'Shea, Mr. You, Mrs. Rizvi, Mr. Lee, Councilwoman Biegacz, and Chairman Porrino. No Nays, No Abstentions.

Application #350K - New Home Construction Lot Coverage Variance
Carissa Ferrari Iannuzzi – 21 Van Nostrand – Block 207 – Lot 4
Resolution – Approval

Chairman Porrino made a motion to adopt the resolution and seconded by Mr. Woo with a roll call vote. (5) Ayes, Mrs. O'Shea, Mr. You, Mr. Lee, Councilwoman Biegacz, and Chairman Porrino. No Nays, No Abstentions.

New Business:

Affordable Housing 4th Round Borough Ordinances Review for Consistency

Chairman Porrino stated that Mr. Michael Mistretta the borough planner and planning board conflict planner will give an overview of the ordinances that were introduced to the Mayor & Council at the February 11, 20206 meeting. Our job tonight is to determine if they are consistent with the borough's master plan.

Mr. Mistretta stated that in June 2025 he made a presentation in front of the board with the 4th Round Affordable Housing Element and Fair Share document which basically states the boroughs constitutional obligation on affordable housing in and how we are going to implement the changes in the zoning plan to address those mechanisms. The plan was approved by the planning board endorsed by the mayor and council submitted to the DCA and forwarded to the state. There was then a three-month period where challenges could have been made to the plan. On August 29, 2025, the borough received one challenge from Fair Share Housing with a couple of comments on the plan and we addressed them on October 30, 2025. After that is was a back and forth with the Borough and Fair Share Housing on a settlement mediation consent agreement. Both parties resolved the challenge and signed off on the document that

was submitted under state law. We are working on the amended Fair Share Housing Act and we are fully in conformance with our third-round and so far with our fourth-round plan. One of the requirements is the statewide obligation must adopt their implementing ordinances no later than March 15, 2026. At last night's Mayor & Council meeting the two overlay ordinances and the one affordable housing ordinance was introduced and referred to the planning board tonight for a consistency review. If all goes well then it goes back to the Mayor & Council for a second reading and adoption.

We have three ordinances before you one is called "Overlay C" another is "Overlay D" and the last one is a Model Affordable Housing ordinance. Mr. Mistretta gave a description along with documents of the ordinances of the Overlay C & D consistent with our master plan housing element that we adopted in June 2025.

There was discussion/questions between members and Mr. Mistretta about the ordinances and the plan.

Mrs. O'Shea stated that she strongly opposes the parking garages for residential properties. There was discussion about this concern. Also, discussed about the impervious coverage calculation. Mrs. O'Shea would like to see these changes in the ordinances and submitted back to the Mayor & Council.

Mr. Mistretta stated this will trigger a rewriting of the ordinances and then a re-introduction by the Mayor & Council and then come back to the Planning Board before the Mayor & Council can adopt them.

Chairman Porrino stated that we all know there are other items that we would like changed in our ordinances and right now we have a time restraint. Members agreed that they didn't like the idea of parking garages.

Mrs. O'Shea would like to red line the parking garage information and send it back to the Mayor & Council. She feels it should not be in the overlay zones.

Mr. Mistretta stated that if the board is recommending this and that it should be sent to the Mayor & Council note that the Mayor & Council will have to have another meeting to re-introduce the ordinances and we will not meet the deadline of March 15, 2026.

Mr. Mistretta stated he noted about the removal of the mixed use and will speak with the attorney about the parking garage issue.

Chairman Porrino stated we are just making a recommendation, and the Mayor & Council may make the changes or not and continue to adopt the ordinance as introduced. Mr. Mistretta stated that is correct. Chairman Porrino stated that it's our job to give our advice we are not binding the Mayor & Council is.

Mr. Mistretta stated it is not as simple as a strikethrough. I think it is going to lead to a larger conversation and other edits which I think cumulatively will result in rewrite and will go from there if we went down that route.

There was discussion between members and Mr. Mistretta to understand what Fair Share Housing is looking for. There was also more discussion about parking garages height, locations etc. between members and Mr. Mistretta.

Chairman Porrino questioned about opening to public to Mr. Wiss and Mr. Mistretta. Mr. Wiss stated this is just a discussion of ordinances and does not require opening to the public. Mr. Mistretta stated all meetings he has been at to do this they have not opened to the public.

Chairman Porrino stated he feels we should open to the public since there are people in the public. Mrs. O'Shea stated it is a public hearing, and the public should be heard. Mr. Wiss and Mr. Mistretta stated that we should air on the side of caution opening the meeting to the public.

Chairman Porrino made a motion to open the meeting to the public for this matter only seconded by Councilwoman Biegacz and carried unanimously by voice vote.

Mrs. Carin Geiger, 270 Alfred St., stated that these are not the same as they were in June. They have changed. Mr. Mistretta went through the changes and made them on his own. Changes were in the setbacks, elimination of roof decks and you can go on and on. These changes were made they are not identical set of ordinances. I find it offensive to this board who are charged with the zoning for this community not Fair Share Housing not Mr. Mistretta, but you the board who will have to enforce it so do it right and that it serves the best interest to the community. Mrs. Geiger continued with going over the overlay C & D zone and what was presented compared to the previous meetings and what was changed. Mrs. Geiger went over the settlement agreements and the different zones around the town. Mrs. Geiger does not agree with above grade parking garages and allowing them in any zones. Also, you should prohibit below grade garages as well. Mrs. Geiger recommended buffers to be added, and no ingress/egress permitted onto residential streets. Charlotte Place is a school street. Also, concerned about maximum lot coverage.

Mr. Martin Geiger, 270 Alfred St., after being at the Mayor & Council meeting last night there were comments that at this meeting there would be comments etc. that would go back for modification to the ordinance and would leave that up to the Mayor & Council and borough attorney. If you are to draft a memo to the Mayor & Council, it should be elaborate to disregard one or two items etc. since you have heard several concerns from members and public.

Chairman Porrino requested a motion to close the public for this matter. A motion was made by Mrs. O'Shea seconded by Mr. Lee and carried unanimously by voice vote.

Chairman Porrino questioned Mr. Mistretta about the borough's ordinance regarding vehicular traffic not permitted from commercial properties onto or out of a residential street and has this been added to the overlay zones so that it is consistent with our regular zone. Mr. Mistretta stated as long as we treat the two the same there would be no issues.

Chairman Porrino listed the items of concerns in regard to these ordinances:

1. Parking garage issue
2. Egress from commercial properties into a residential street

Chairman Porrino questioned should the board vote on the consistency of the ordinances and then submit recommendations to the Mayor & Council. Mr. Mistretta agreed. Chairman Porrino stated he does agree to have structure parking but not structures near residential areas. I feel the impervious coverage needs to be addressed my suggestion is to limit having structure parking in a separate structure. Limit it to parking beneath the primary building so that you don't see it. I feel there will be less flooding when you reduce the impervious area and have some structure parking. We are not worried about the cars in the garages they

can deal with their own flood management. We are concerned with the people behind and downhill from these properties. They are at the top of the hill. This is how I feel we can direct this to the Mayor & Council as to limit the structure parking beneath the primary building and not as an accessory structure.

Chairman Porrino asked for a motion that the three ordinances #2026-04, 2026-05 & 2026-06 are not consistent to the master plan. Motion was made by Mrs. O'Shea seconded by Mr. Lee with a roll call vote. (8) Ayes, Mrs. O'Shea, Mr. You, Mr. Kim, Mrs. Rizvi, Mr. Lee, Councilwoman Biegacz, Mr. Woo and Chairman Porrino.

Chairman Porrino summarized the recommendations to the Mayor & Council:

1. Limiting egress/ingress from commercial properties onto residential street within the borough's ordinance. Suggested to adding that language into the ordinance.
2. No structure parking in the overlay zone except for ground level under the structure consistent with our current zoning only on the ground level.

Councilwoman Biegacz questioned these are consistent to what we already have so we are not inventing anything new. Mr. Mistretta agreed as did Chairman Porrino.

Chairman Porrino requested a motion for the Planning Board Attorney to draft a memo of the recommendation to the Mayor & Council. Motion was made by Mr. Kim seconded by Mr. Lee with a roll call vote. (8) Ayes, Mrs. O'Shea, Mr. You, Mr. Kim, Mrs. Rizvi, Mr. Lee, Councilwoman Biegacz, Mr. Woo and Chairman Porrino.

Application #351K – Residential Home Rear & Side Yard Variance
Hyunjin Kim – 16 Sixth St. – Block 203 – Lot 8

Mr. Michael Song attorney for the applicant gave an overview of the four variances that they are requesting. They are proposing to extend the deck as a result the minimum rear yard becomes 15.4' whereas 20' is required. Installation of A/C units on the side yard whereas the combined side yard required is 13' and we are requesting 10.9'. With these two changes we are also requesting a lot coverage variance where lot coverage required is 32% and we are requesting 34%. We are also requesting an impervious lot coverage variance where 51% is required and we are requesting 52%.

Mr. Hojoon Chung architect, for the applicant, gave a description of the house on the property as is today. They are proposing to install a rear deck 20'x10', whereas the existing deck is 12'x11.7' and the air condition units that have been installed on the side yard of the home. Mr. Chung stated the deck plan was on page "A-2" of the plan with a revision date of January 2026. Mr. Chung described the deck showing all elevations on the plan. There is three air condition units that are 5.7' from the property line. The issue is the total side yard combined should be 13' and we are at 10.9'. We are short 2.1' which requires a variance.

Chairman Porrino questioned is this a new construction? Mr. Chung stated yes, it is a completed project. Chairman Porrino questioned if the approved building plans were submitted.

Mr. Chung stated no. Chairman Porrino asked if he could explain what was approved by the building dept. and what is different to that approval. Mr. Chung stated the deck that exists as per approved building plan. The air conditioning units are the issue since they were to be located on the rear but while doing construction, they changed to the side yard because they wanted to extend the deck and patio. We didn't realize it was going to be an issue. The deck now is a composite deck with a solid surface.

Mr. You questioned what is the current condition is the house built with the larger deck? Mr. Chung stated no it was built as approved it is just the air condition units which triggered us to go for a variance, so we then decided to request for the extension of the deck at the same time.

Chairman Porrino stated that we had issued a conditional completeness review letter being that the drainage information was not submitted, and I think is still not answered.

Mr. Zimmerman board engineer stated we still wanted to see a drainage report. Was there a grading application submitted at the time of construction and was it approved at time of permitting? Mr. Song stated yes. Mr. Zimmerman questioned so now are you requesting additional impervious coverage and we need it on the record that the 1% increase and the current drainage you have can be absorbed into the drainage system in the ground. I need to see that to be satisfied. Mr. Song stated that Mr. Scrabble is working on it now, but it is not present this evening and that the drainage is in the back westerly corner of the property. Mr. Zimmerman stated that he is satisfied seeing it on the plan, but it will be a condition of approval if the board is to approve the application. You will need to still submit that information.

Mr. Lee questioned the curb cut on the as built? Mr. Chung stated that it is 18' wide. Mr. Lee stated as per the ordinance as single car curb cut should be 16'. Mr. Chung stated that it is a two-car driveway.

Chairman Porrino asked if there was a letter form the building dept. listing what was not in conformance to obtain the CO. Mr. Song stated there is no letter it is just the air condition units on the side yard.

Chairman Porrino requested a motion to open to the public for this matter. A motion was made by Mr. Lee seconded by Mrs. O'Shea and carried unanimously by voice vote.

No Comments

Chairman Porrino requested a motion to close the public. A motion was made by Mrs. O'Shea seconded by Mr. Lee and carried unanimously by voice vote.

Mrs. O'Shea stated that she gets very upset when people come to us after construction is completed and was not completed as per the approved plans. Mr. Zimmerman stated that there is about 15' apart from your home and the neighbor as seen on google earth. Mrs. O'Shea feels the deck should be made smaller as to not have such an impact on the rear yard setback. Mr. Zimmerman and members went over the size of the deck proposed. So instead of 12'x10' why not go to 8'x10' for the deck size. Mr. Kim stated why not 9'x16' in size for the deck which will be more to the size of the home.

Mr. Song took a short break to speak with the applicant. He came back and stated they are willing to reduce the deck to 10'x16' rather than 9'x16'.

Chairman Porrino questioned the reasoning for the air condition units not to be installed on the rear where it was approved to be. Mr. Chung stated that because of the walkway from the basement and patio there is not enough space for them. Chairman Porrino stated that there is some resistance from members in regard to the deck size. I understand the placement of the air condition units, but I would suggest reconsidering the deck size with your client. Mr. Song took another short break to speak with the applicant again and they agreed to the size of 9'x16' for the deck. It was requested to have updated information as far as impervious coverage, lot coverage etc. to have correct for resolution approval. Chairman Porrino stated that the number of variances will probably stay the same it's just the distances will change.

Chairman Porrino requested a motion of approval with the revisions that the applicant is to submit as follows:

1. Deck size will be reduced to a size of 9'x16"
2. Air condition units are permitted to remain in the present side yard location
3. Landscape screening that has been installed will remain in perpetuity

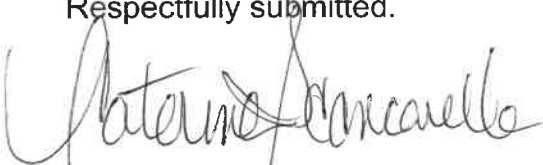
A motion was made by Mr. Kim seconded by Mrs. O'Shea with a roll call vote. 8 (Ayes) Mrs. O'Shea, Mr. You, Mr. Kim, Mrs. Rizvi, Mr. Lee, Councilwoman Biegacz, Mr. Woo and Chairman Porrino. No (Nays), No (Abstentions)

Chairman Porrino made a motion to open to the public for any matter seconded by Mr. Lee and carried unanimously by voice vote.

No Comments

Chairman Porrino requested a motion to close the public portion and adjourn the meeting at 10:05 pm. A motion was made by Councilwoman Biegacz seconded by Chairman Porrino and carried unanimously by voice vote.

Respectfully submitted.



Caterina Scancarella
Planning Board Administrative Secretary

ENGLEWOOD CLIFFS PLANNING BOARD

REGULAR MEETING – February 12, 2026, 7:30 PM

10 Kahn Terrace, Englewood Cliffs, NJ

CALL TO ORDER

The meeting of the Englewood Cliffs Planning Board will come to order this (date). The time is (time).

FLAG SALUTE:

OATH OF OFFICE FOR NEWLY APPOINTED MEMBER

William Woo – Mayor Designee

"OPEN PUBLIC MEETINGS ACT" STATEMENT

This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regularly scheduled Planning Board meeting by advertisement in The Record, notification to the Northern Valley Press Journal, the Suburbanite, posting of notice on the municipal website at www.EnglewoodCliffsNJ.org, and at Borough Hall, 482 Hudson Terrace, Englewood Cliffs, NJ.

ROLL CALL

APPROVAL OF MINUTES:

December 11, 2025 – Regular Meeting
January 8, 2026 – Re-Organization Meeting
January 8, 2026 – Regular Meeting

OLD BUSINESS:

- Application #345K - Commercial Site Plan Approval
Englewood Hospitality, LLC – 495 Sylvan Ave. – Block 512 – Lot 3
Resolution – Approval

- Application #349K - Commercial Sign Variance
45 Sylvan Ave., LLC – 45-47 Sylvan Ave. - Block 207 – Lot 5
Resolution – Approval

- Application #350K - New Home Construction Lot Coverage Variance
Carisa Ferrari-Iannuzzi – 21 Van Nostrand - Block 207 – Lot 4
Resolution – Approval

NEW BUSINESS:

- Affordable Housing 4th Round Borough Ordinance changes for Continuity

- Application #351K - Residential Home Rear & Side Yard Variance
Hyunjin Kim – 16 Sixth – Block 203 – Lot 8

COMMUNICATIONS:

EXECUTIVE SESSION:

COMMITTEE REPORTS:

PUBLIC COMMENTS OTHER THAN HEARING ON THIS AGENDA

ADJOURNMENT

ORIGINAL

PLANNING BOARD BOROUGH OF ENGLEWOOD CLIFFS

IN THE MATTER OF THE APPLICATION : **MEMORIALIZATION RESOLUTION**
OF PCB Bank c/o Jungwhan Ryu :
: **APPLICATION NO. 349K**
FINAL SITE PLAN APPROVAL RELATING :
TO LOT 5 BLOCK 207 :

WHEREAS, Applicants, PCB Bank c/o Jungwhan Ryu, applied on or about June 24, 2025 to the Planning Board of the Borough of Englewood Cliffs, for site plan approval with variance relief to install and/or modify signs at the subject property known as 45-47 Sylvan Avenue, also known as Block 207 Lot 5 on the tax map of the Borough of Englewood Cliffs, which property is located in the Borough's B-2 (Limited Business) zone district; and

WHEREAS, the public hearings were conducted on December 11, 2025 upon proper notice certified by Applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and

WHEREAS, on December 11, 2025 a vote of the Board was taken to approve the application; and

WHEREAS, during the course of said hearing, Applicant presented expert testimony from its professional outlining the site plan application and short summary; and

WHEREAS, all application materials, including all plans and reports submitted by

or on behalf of Applicant, are a part of the official record of the public hearings on the application; and

WHEREAS, Applicants were represented by Matthew Capizzi, Esq.; and

WHEREAS, the Planning Board considered documentary evidence submitted in connection with the application and heard testimony of the Applicant, witnesses, and considered the argument of Applicants; and

WHEREAS, the Planning Board was represented by Thomas W. Randall, Esq., at the hearings on this Application; and

WHEREAS, interdepartmental communications and advisory reports of municipal departments and agencies were received and considered as follows:

Review letters of the Board's consulting professional:

- a) Application and Cover letter, dated June 24th, 2025;
- b) 200' adjacent owners list, dated May 5, 2025;
- c) Planning Board Resolution, dated April 25, 1985;
- d) Planning Board Resolution, dated October 15, 1985;
- e) Tax Certificate dated April 29, 2025;

f) Engineering Plan prepared by Collazuol Engineering & Surveying Assoc., consisting of two (2) sheets dated April 21, 2025, and last revised as of September 24, 2025; and

g) Response letter prepared by Collazuol Engineering & Surveying Assoc., dated September 25, 2025, outlining the revisions made to the aforementioned plan set.

WHEREAS, testimony in support of the application was given by:

- a. Steven Collazuol, Professional Engineer.

WHEREAS, the following Board consultants testified for the board:

1. Craig Zimmermann, P.E., Colliers Engineering

WHEREAS, the Board did consider the testimony and evidence presented,

NOW, THEREFORE, on this 12th day of February, 2026, be it resolved that the Englewood Cliffs Planning Board makes the following findings of fact:

The Application

A. Existing Conditions

The subject site, known as Lot 5 of Block 207, is located at 45-47 Sylvan Avenue, located at the intersection of Van Nostrand Avenue and Sylvan Avenue. The parcel contains 14,321.40 square feet in area (approximately 0.329 acres) and is located in the Borough's B-2 (Limited Business) zone district. The property contains 139.65 feet of frontage along Sylvan Avenue and 102.59 feet of frontage along Van Nostrand Avenue. The subject site is currently developed with a two-story building with drive through lanes, driveway access on Van Nostrand, parking, landscaping, signage, lighting and related appurtenances. The property is currently occupied by tenant PCB Bank.

B. Proposed Conditions

The Applicant is seeking to install the following signage at the subject property:

i. One (1) illuminated ground sign at the corner of Van Nostrand on the subject property with the ends of the sign being approximately 16' from the curb of Van Nostrand and approximately 12' from the curb of Sylvan Avenue. See sign "A" on the applicant's plans.

ii. One (1) illuminated building sign facing Van Nostrand Avenue. See sign "B" on the applicant's plans.

iii. One (1) existing, non-illuminated building sign facing Sylvan Avenue to remain. See sign "C" on the applicant's plans.

The application does not appear to propose any additional site modifications other than cited above.

C. Planning & Variances

Below is a zoning schedule provided by the applicant's professional delineating the Required, Existing and Proposed conditions, including variances.

**Zoning Schedule
B-2 Limited Business**

	Required	Existing	Proposed
Minimum Lot Area (s.f.)	80,000	14,321.40 (E)	14,321.40 (E)
Minimum Lot Width (ft.)	125	139.65	139.65
Min. Front Yard (ft.)	60	26.03 (E)	26.03 (E)
Min. Rear Yard (ft.) (1)	20.4	20.46	20.46
Min. One Side (ft.)	30	34.67/8.67 (O.H.(E))	34.67/8.67 O.H. (E)
Min. Corner Side (ft.)	30	74.61	74.61
Max. Lot Coverage (%)	33.3	16.26	16.26
Max. Impervious Coverage	N/A	N/A	N/A
Max. Bldg. Height (ft./stories)	35/2	24.05/2	24/05/2

Item-Signs Attached to Buildings 19-15.b

	Required	Existing	Proposed
Max. Total Sign Area (s.f.)	32	12.2	23.5
Max. Height (ft.)	4	2.3	2.42
Max. Length (ft)	16	9.2	14.85
Max. Amount of Signs per building	1	1	2* (2)
Illuminated signs	0	0	1*

Item – Ground Signs 19-16.c

Max. Total Sign Area (s.f.)	32	-	13.5
Max. Height (ft)	4	-	3
Max. Length(ft)	8	-	4.5
Total Height of Sign Measured from Ground (ft)	6	-	5.92
Max. Amount of Ground Signs	1	-	1
Min. Distance of Ground Sign from Street Line	30	-	12*
Min. Distance of Ground Sign from Lot Line	20	-	2.8*
Illuminated Signs	-	0	1*

- (1) 20% of Lot Depth.
 - (2) Includes Existing Building Mounted Sign.
 - (3) Existing Condition
- *Variance Required.

D. Proposed Site Plan Conditions

1. Grading: The applicant does not propose any changes to the grading of the existing site.
2. Driveway: The applicant does not propose any changes to the egress of the existing site.
3. Drainage: The applicant does not propose any additional impervious area and/or related drainage improvements to the existing site. The proposed site plan does not increase the impervious coverage.
4. Landscaping: The applicant does not propose any landscaping for this project.
5. Lighting:
 - a. The applicant shall be prepared to provide additional testimony / details regarding lighting to demonstrate the proposed lighting conform with all aspects of the Englewood Cliffs Code, specifically section § 30-5.16.9 Lighting.
6. Soil Erosion and Sediment Control: The applicant does not propose any soil movement.

Exhibits

A-1 is a photograph of the signage on at the Van Nostrand elevation, and A-2 is a ground sign at the intersection event on Van Nostrand and Sylvan. Both dated December 11, 2025.

A-2 is a colorized version for the site plan.

HEARINGS

Testimony on December 11, 2025

The evidence introduced portion of the Resolution exhibit.

A-1 is a photograph of the signage on at the Van Nostrand elevation, and A-2 is a ground sign at the intersection event on Van Nostrand and Sylvan. Both dated December 11, 2025.

Stephen Collozual was sworn and qualified as a Professional Engineer.

1. He testified to his two-page plan.
2. A color rendering of his plans was introduced as Exhibit A-3.
3. The request was an illuminated sign identified as sign A which is an illuminated ground sign at the corner of Van Nostrand and Sylvan Avenue, sign "B" a replacement of the existing non-illuminated sign at Sylvan and a new illuminated sign to be mounted at the building facing Van Nostrand identified as sign "C".
4. There is no change to the building.
5. The variances were identified.
6. Required for total area signs permitted at 32 ft.²
7. The existing two signs at locations "A" and "C" are conforming for total square footage.
8. The proposed signage with the replacement of sign "C" and "A" and the new sign "B", exceeding the allowable square footage.
9. The number of signs is one mounted on the building and two were proposed.
10. After discussion, it was finally determined that the square footage of all signs was 41.5 square feet.
11. Discussing the ground mounted sign it was agreed that the side sign will be one-sided facing out from the parking lot towards the roadway.
12. The sign is 71 inches in height and 4.9 feet in width.
13. The sign on the monument is 4 ½' x 3 ½' totaling 13.5 ft.².
14. After discussion it was agreed that the monument sign be limited to 20 foot inches for the

sign itself on a 12 foot base not to exceed 36 inches with a width of 6 feet.

15. It was further agreed to move the monument from his location by 4.6 feet further back from the 2.8.

'C' Variances

For bulk 'C' variances, NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible "C" variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Applicant should be advised that, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70C), deviation from a bulk standard can be granted under either a "C(1)" hardship variance or a "C(2)" flexible variance:

- a. A "C(1)" hardship variance can be granted to relieve peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of a specific piece of property that is uniquely affected by (a) exceptional narrowness, shallowness or shape, (b) exceptional topographic conditions or physical features, or (c) other extraordinary and exceptional situation affecting the property or the lawfully existing structures. For a "C(1)" variance, the Applicant must demonstrate that there is some specific physical feature of the property that prevents compliance with the ordinance.

b. A “C(2)” flexible variance requires the Applicant to demonstrate that the benefits of allowing the proposed deviation will substantially outweigh any detriments associated with the deviation. The Applicant must show that the requested “C(2)” variance will result in a better plan for the property.

For both “C(1)” and “C(2)” variances, the Applicant must also demonstrate to the Board that:

a. The purposes of zoning (see N.J.S.A. 40:55d-2) would be advanced by the proposed deviation. Furthering one or more purposes of zoning would indicate that there is a benefit to granting the proposed variance.

b. The variance can be granted without substantial detriment to the public good. The focus is on the impact of the proposed variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good."

c. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Applicant must demonstrate that the variance is not inconsistent with the intent and purpose of the ordinance requirements from which relief is sought.

Discussion and Analysis

1. This application is made for a new Bank which will be replacing the existing building mounted sign facing Sylvan avenue as well as the monument sign at the corner of Van Nostrand and Sylvan avenue. While the signs exceed in total the square footage permitted, there is an aesthetic and safety benefit achieved with the improvement. Particularly the relocation of the monument sign further back from Sylvan Ave. for visibility. The addition of a sign facing Van Nostrand will promote safety and assist with the orderly flow of traffic. It is clear that the benefits of the a of the signage outweighs any detriment and the

the relief can be granted without damage to the public good or impairing the zone ordinance or plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Borough of Englewood Cliffs recommends the approval of the Final Site Plan with variances for:

A. Signage to be installed on the building and monument sign as follows:

General Conditions

1. The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development, including but not limited to the New Jersey Department of Environmental Protection and the Bergen County Department of Planning and Economic Development.
2. The Applicant pay the costs of the Borough of Englewood Cliffs, Planner, Engineer and Borough of Englewood Cliffs Planning Board Attorney associated with this application, and release of escrows posted authorized upon receipt of sign off letters from all Borough professionals.
3. All representations made by applicants or their agents shall be deemed conditions of this approval and any misrepresentations by applicants or their agents contrary to the representations made before the Board shall be deemed a violation of this approval.
4. The action of the Planning Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals or agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.
5. Building permits as needed must be obtained before any work begins at the site and in

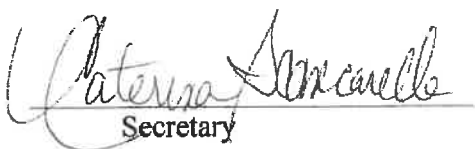
accordance with the approval(s) conferred herein.

Specific Conditions

1. Signs "B" and "C" approved as per plan submitted.
2. Sign "B" to be non-illuminated.
3. Sign "C" to be illuminated as per testimony.
4. Sign "A" to be moved back 4.6' from proposed location. 'the height of the sign Would be revised from 6' to a maximum of 3'. The signage portion to be no more than 2' in height with a base of 12" in height. The letters and logo will be on one line with an overall sign width of no greater than 6'. The sign will not to be illuminated.
5. The Illuminated sign on the building must be shut off at 10:00 p.m. There will be a 6-month look back to check on the level of illumination.
6. If State DOT is required, the Applicant should request and inquire.
7. Applicant can rotate the ground sign decreasing the distance to the Van Nostrand right of way by a distance of no greater than 18" from proposed location.

ATTEST:

ENGLEWOOD CLIFFS PLANNING BOARD


Secretary


Chairperson

ORIGINAL

PLANNING BOARD BOROUGH OF ENGLEWOOD CLIFFS

**IN THE MATTER OF THE APPLICATION : MEMORIALIZATION RESOLUTION
OF CARISA FERRARI-IANNUZZI : APPLICATION NO. 350K
FINAL SITE PLAN APPROVAL RELATING :
TO LOT 4 BLOCK 703 :
21 VAN NOSTRAND AVENUE :**

WHEREAS, Applicant, Carisa Ferrari-Iannuzzi, applied on or about October 2, 2025 to the Planning Board of the Borough of Englewood Cliffs, for site plan approval with variance relief to construct a single-family with an attached three-car garage; and

WHEREAS, the public hearings were conducted on January 8, 2026, upon proper notice certified by Applicant's proof of service to property owners within a 200-foot radius of the subject property and proof of publication in an official newspaper of the Borough; and

WHEREAS, on January 8, 2026 a vote of the Board was taken to approve the application; and

WHEREAS, during the course of said hearing, Applicant presented expert testimony from several professionals outlining the site plan application and short summary; and

WHEREAS, all application materials, including all plans and reports submitted by or on behalf of Applicant, are a part of the official record of the public hearings on the application; and

WHEREAS, Applicant was represented by Matthew Capizzi Esq.; and

WHEREAS, the Planning Board considered documentary evidence submitted in connection with the application and heard testimony of the Applicant, witnesses, and considered the argument of Applicant's attorney; and

WHEREAS, the Planning Board was represented by Thomas W. Randall, Esq., at the hearings on this Application; and

WHEREAS, Applicant submission, interdepartmental communications and advisory reports of municipal departments and agencies were received and considered as follows:

Review documents and letters of the Board's consulting professional:

a) Planning Board Application dated November 18, 2025, prepared by Matthew G. Capizzi, Esq., Attorney for the applicant, six (6) pages;

b) Borough of Englewood Cliffs, official 200-foot list regarding the subject property, dated October 20, 2025 – 2 pages

c) Engineering Plan prepared by Azzolina & Feury Engineering Inc. – 2 sheets dated July 1, 2025, last revised November 12, 2025;

d) Boundary Survey Map prepared by Azzolina & Feury Engineering Inc. dated February 28, 2025;

e) On-site Retention Design prepared by Azzolina & Feury Engineering Inc. dated August 1, 2025; and

f) Architectural Plan prepared by Fred Klenk consisting of twelve (12) sheets dated June 4, 2025 and last revised September 5, 2025

WHEREAS, testimony in support of the application was given by:

- a Perry Frenzl Professional engineer
 - b.Fred Klenk licensed professional architect.
 - c.Nicholas Graviano Licensed professional planner
- and

WHEREAS, the following was submitted into evidence:

- Exhibit A-1 – colored rendering page 1 of 9 of plans submitted with application
- Exhibit A-2 –

WHEREAS, the following Board consultants were present,

- a. Craig Zimmermann, Colliers Engineering – Board Engineer
- b. Thomas W. Randall, Randall & Randall, LLC – Board Attorney

WHEREAS, the Board did consider the testimony and evidence presented,

NOW, THEREFORE, on this 12th day of February, 2025 be it resolved that the Englewood Cliffs Planning Board makes the following findings of fact:

The Application

The application submitted by Applicant was complete and jurisdiction before the Board was proper.

Existing Conditions

The subject property, known as 21 Van Nostrand Avenue and located at Lot 4 of Block 207, is in the R-B1 (Single-Family Residential) zone district. The property has 80' of frontage along Van Nostrand Avenue without sidewalks. The property contains approximately 12,200 square feet in area and currently is improved with a single-family dwelling, shed, driveway, and related appurtenances.

Proposed Development

The Applicant is seeking to construct a new single-family dwelling with an attached three-car garage, paver driveway, veranda in the rear, as well as other associated improvements at the Property (the "Application"). The Application requires variance relief as to Maximum Building Lot Coverage and Maximum Total Lot Coverage.

Below is the bulk table from the applicant's plan:

Item	Required	Existing	Proposed
Min. Lot Area	5,000 S.F.	12,200 S.F.	12,200 S.F.
Min. Lot Width	50.0'	80.0'	80.0'
Min. Front Yard	20.0'	34.1'	20.2'
Min. Rear Yard	20.0'	77.3'	34.8'
Min. Side Yard - One	5.0'	12.1'	5.8'
Min. Side Yard – Both	13.0'	28.2'	14.0'
Max. Lot Coverage-Bldg.	27.0%	16.04% (1,957 S.F.)	32.52% (V)
Max. Lot Coverage-Acc Struct	3.0%	1.64% (200 S.F.)	2.4%
Max. Lot Coverage-Total	30.0%	17.68% (2,157 S.F.)	34.92% (V)
Max. Impervious Coverage	51.0%	33.3%	50.1%
Max. Rear Yard Coverage	60.0%	8.2%	1.0%
Max. Bldg Height-8 Points	30.0'	<30.0'	29.66'
Max. Bldg Height-Curb	32.0'	<32.0'	31.70'
Max. Bldg Height-Stories	2.5	1	2.5
Min. Floor Area – 1 Floor	1,000 S.F.	>1,000 S.F.	N/A
Min. Floor Area – 2 Floors	1,200 S.F.	N/A	See Arch. Plans
Shade Tree	2	1	2

(V) – Variance Required

Variances

The Applicant is proposing and requesting variances two (2) variances:

Max. Lot Coverage – Building: 27% is allowed, 16.04% exists and 32.54% is proposed.

Max. Lot Coverage – Total: 30% is allowed, 17.68% exists, and 34.92% is proposed.

HEARINGS

Testimony on January 8, 2026

Perry Frenzl, Professional Engineer, was sworn and qualified:

1. Gave an overview of the site plan for the proposed home.
2. It is surrounded by the LG property in the area and in the adjacent zone.
3. The property he presently has a circular driveway servicing the front entrance.
4. Property is being reconfigured to a single driveway access in the garage will be accessed on the side of the new home.
5. Properties partially below grade with this stairwell on the north east corner of the dwelling.
6. He proceeded to address the comments of Collier's Engineering.
7. Cultec chambers are proposed to address stormwater from the previous areas.
8. There will also be sufficient flow and slope to allow for a possible overflow to the Borough storm water system.
9. Landscaping is compliant with a request and location of utilities were also addressed in response to the letter.
10. Line of site is not an impediment to the project.
11. Sidewalks would appear unnecessary if they are not in the immediate neighborhood.
12. Home proposed conformed with the neighborhood, which is residential and bordered by the commercial building property.
13. The garage proposed can accommodate 4 cars.
14. The rear grading will remain in the front grade wall be raised slightly at the entrance.

15. The circular driveway will be removed and one curb cut will be abandoned.
16. It will not be used as it is today.
17. Remainder of the letter was reviewed with the Engineer.
18. It was confirmed there was a lot of coverage variance for the structure which will go from 16.04% to 32.52% in excess of the 27% permitted.
19. Current Lot coverage is 17.6% to go up to 35% or 30% as permitted, a 4.92% increase.
20. Consultation with the Engineer determined it is an oversize lot so that the lot coverage ordinance did not really apply and only one variance was required.

Fred Klenk was qualified as an Architect licensed in New Jersey:

21. Exhibit A=1 was introduced, which was a color lettering of the nine page plan submitted with the application.
22. The interior of the zone of the house was described, as well as the shape which is an L-shape.
23. There is a garage extension in the interior where applicant wants to store a “trophy” vehicle.
24. That storage room was the reason for the extra building space.
25. The three-car garage with the extension for the trophy car will be two stories in height only over the bay housing the trophy vehicle.
26. There is a second floor office with a picture window, which will allow the car to be viewed from the inside.
27. The bedrooms and exterior elevations were also reviewed.
28. It was noted that the property was large enough to subdivide into conforming lots.

29. Emphasized that the 5.5% excess coverage was not significant.

30. The glass on the second floor will be fiber rated.

Nicholas Graviano qualified as a Professional Planner:

31. He proceeded to provide proof under a C(2) variance.

32. He noted that this application reflects of 1% decrease in the impervious coverage with removal of the circular driveway.

33. This is a 12,000 ft.² foot property in the RB-1 Zone and the home is bordered only by homes of similar style and adjacent on two sides by the LG commercial property.

34. This property is over sized and the coverage variance is not significant in that context and scale.

35. There is a safety issue for the family due to the theft that happened on another occasion due to the nature of his dealership business, and they want to protect their family and their neighbors and vehicles at homes.

36. In conclusion, he concluded the proposal would not cause substantial detriment to the neighborhood or impair the zone plan of the Borough.

37. There was no detriment to the neighborhood and the zone plan.

38. No business will be conducted at the home.

STATUTORY CRITERIA

a. An Applicant may be granted c(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific

piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

b. Public Benefits Test. An Applicant may be granted c(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

c. Negative criteria. In addition to the above, the Applicant must address the Negative Criteria of the statute. To meet the negative criteria, an Applicant must demonstrate the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the master plan and zoning ordinance.

ANALYSIS AND CONCLUSION OF LAW

Applicant is seeking variances for total lot coverage and building coverage. Regarding positive criteria of the C2), this upgrade will provide safety enhancement for the neighborhood and the personal residence by housing the expensive vehicle. There was also a modest reduction in impervious coverage as part of an overall stormwater mitigation strategy.

Regarding C(2) standards, the board does not see any negative impact coming from this development as Applicant is mitigated as this is oversize lot, adjacent on two sides by the LG commercial property and zone. The home is also consistent with the surrounding neighbors. The proposal will not negatively impact the neighborhood nor impair the zone intent. There is no detriment to the neighborhood or impairment of the zone plan or zone intent.

The benefits substantially outweigh any detriment, as there is adequate mitigation of any

impact. The relief can be granted.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Borough of Englewood Cliffs recommends the approval of the Final Site Plan with variances for:

- A. Construction of a two-story addition on a single-family home.

General Conditions

1. The Applicant shall obtain the approval (or waiver thereof) of any and all other governmental agencies having jurisdiction over the proposed development, including but not limited to the New Jersey Department of Environmental Protection and the Bergen County Department of Planning and Economic Development.

2. The Applicant pay the costs of the Borough of Englewood Cliffs, Planner, Engineer and Borough of Englewood Cliffs Planning Board Attorney associated with this application, and release of escrows posted authorized upon receipt of sign off letters from all Borough professionals.

3. All representations made by applicants or their agents shall be deemed conditions of this approval and any misrepresentations by applicants or their agents contrary to the representations made before the Board shall be deemed a violation of this approval.

4. The action of the Planning Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Englewood Cliffs, or its reviewing professionals or agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

- 5. Building permits as needed must be obtained before any work begins at the site and

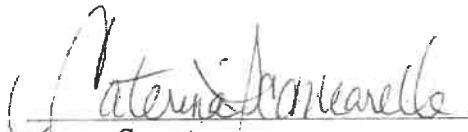
in accordance with the approval(s) conferred herein.

Specific Conditions

1. Shade trees to be planted as per ordinance.
2. Installation of overflow from Cultec draining system shall be installed to discharge into the nearby borough storm water catch basin. Applicant to install lawn pop-ups as another overflow mechanism.
3. All curbs along the front of the property need to be replaced as per Borough ordinance.

ATTEST:

ENGLEWOOD CLIFFS PLANNING BOARD


Secretary


Chairperson

Memorandum

To: Cathy Scancarella, Planning Board Administrative Secretary
From: Michael J. O'Krepky, P.E.
Date: January 23, 2026
Subject: Completeness Review II - 16 Sixth Street - App #351K
Block 203, Lot 8
Project No.: ECP0187

On January 26th, 2026, the Englewood Cliffs Completeness Review Committee is scheduled to meet to discuss the above-mentioned project.

It is our understanding that at this time, the Committee will discuss several items in support of completeness and/or discuss concerns to be addressed prior to a formal Planning Board hearing date for this application.

On December 18th, 2025, the Englewood Cliffs Completeness Review Committee met to discuss the above referenced project. During the meeting the Englewood Cliffs Completeness Review Committee deemed the above referenced application **incomplete**. On January 21st, 2026 the applicant's Attorney submitted additional documents in support of this application and Englewood Cliffs directed our office to complete a second Completeness Review regarding this application.

The application has been reviewed by this office for conformance in regard to the Site Plan/Subdivision application checklist(s). We offer the following comments. An **OK** signifies compliance and/or substantial compliance to the application checklist. The Additional comments where necessary are also provided in **BOLD**.

1. Name and title of applicant, owner, and person preparing map. **OK**
2. Place for signature of chairman and secretary of planning board. **OK**
3. Place for signature of Borough engineer. **OK**
4. Lot and Block numbers. **OK**
5. Scale (not less than 1" = 20'), "north" sign. **OK**
6. Drawing date and revision number. **OK**

7. Zone district of subject property and zone district of properties within 200'. Show zone lines.
OK (Zone limits not shown)
8. Names of owners of all property owners within 200'. **Provided separately – not in drawings.**
9. Lot dimensions, setbacks, front yards, side yards rear yards. Show fences and type of fence.
OK
10. Location, dimensions and details of all signs. **OK**
11. Lighting details, including standards, location, radius and direction of light, intensity of light.
N/A
12. Outside dimensions of existing and/or proposed principal buildings and all accessory structures. **OK**
13. Storm drainage plan showing location of inlets, pipes (including size, flow quantities, slope, velocity), swales, berms, roof leaders and other storm drainage facilities. Submit existing and proposed run-off calculations. Include for each pipe run:
 - a) Total tributary area in acres
 - b) Rainfall intensity, in/hr computed by formula $R =$
 - c) Time of concentration in minutes
 - d) Coefficient of runoff**Not provided – Note: The plans propose an increase to impervious coverage.**
14. Rights of way, easements and all lands to be dedicated to the borough or reserved for specific uses. **N/A**
15. Show the entire property in question, even though only a portion may be involved in the development. **OK**
16. Show significant existing physical features, including streams, water courses, rock outcrops, swampy soil, etc. **OK**
17. Bearings and distances of property lines. **OK**
18. Plans of off-street parking area layout and off-street loading facilities showing location and dimensions of individual parking spaces, handicapped parking, loading areas, aisles, traffic patterns and driveways for ingress and egress. **N/A**
19. Show all driveways within 200' of site. **OK - N/A**
20. Show all existing and proposed curb cuts and sidewalks. **OK**
21. Show all existing and proposed utility lines within and adjacent to the subject property, including cable TV and underground systems. **OK**
22. Show typical floor plans and elevations. **OK – N/A**
23. Show existing and proposed sanitary sewerage disposal system. Show percolation and test holes and results and soil log data. **N/A**
24. Show water supply system. **OK – N/A**

25. Show method of solid waste disposal and storage. **OK**
26. Show existing and proposed spot elevations based on US Coastal Geodetic datum at all building corners, floor levels, center of abutting roads, top and bottom of curbs and retaining walls, property corners, gutters and other pertinent locations. **N/A**
27. Show construction details of all retaining walls. Provide engineering calculations for walls over four feet in height. **N/A**
28. Show existing and proposed contours of site for areas greater than 5% grade. **N/A**
29. Provide separate landscaping and buffering plan showing what will remain and what will be planted, indicating names and dimensions of plants and trees, approximate time of planting and method of planting. Properties with buffer zones to show year-round buffering and screening plan. **N/A**
30. Projects which disturb more than 5000 square feet of land shall file application with the Soil Conservation District as per Soil and Sedimentation Control Act NJSA 4:24-39. A copy of the approved plan shall be filed with the Planning Board. **N/A**
31. Include a table showing all required existing and proposed zoning data, indicating any variances sought. **OK**
32. Calculation of impervious coverage, before and after completion of the proposed project. **OK**

If you have any questions or comments, please do not hesitate to contact our office at 973-810-0049.

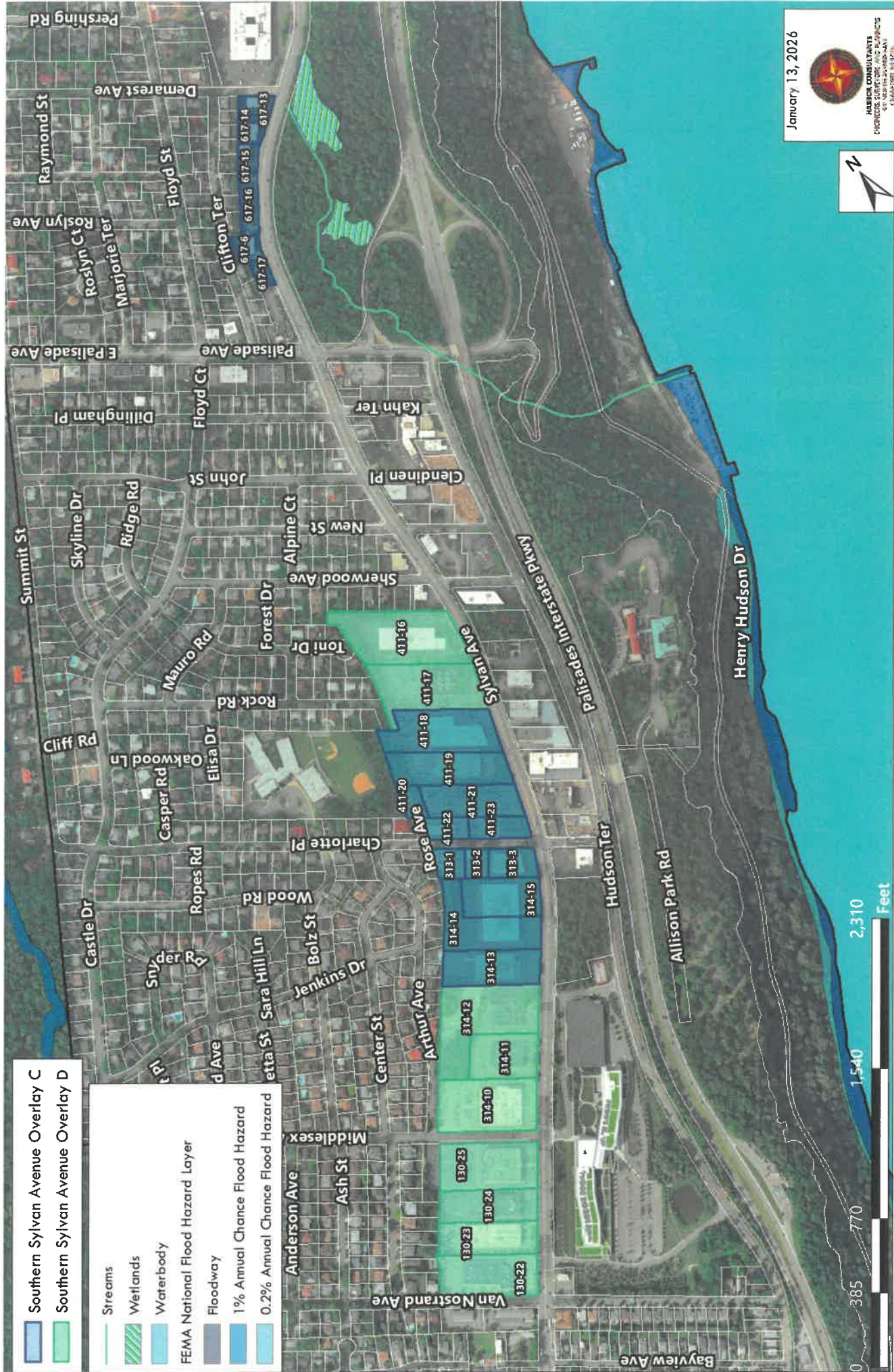
Sincerely,

Colliers Engineering & Design



Michael O'Krepky
Borough Engineer

cc. Russ Porrino, Board Chairman – Via Planning Board Administrative Secretary
Members of Englewood Cliffs Planning Board, Via Planning Board Administrative Secretary



- Southern Sylvan Avenue Overlay C
- Southern Sylvan Avenue Overlay D

- Streams
- Wetlands
- Waterbody
- FEMA National Flood Hazard Layer
- Floodway
- 1% Annual Chance Flood Hazard
- 0.2% Annual Chance Flood Hazard



January 13, 2026



HARBOR CONSULTANTS
 ENGINEERS SURVEYORS AND PLANNERS
 401 NEW HAVEN AVENUE
 SUITE 200
 HARTFORD, CT 06103

**BOROUGH OF ENGLEWOOD CLIFFS
COUNTY OF BERGEN**

ORDINANCE NO. 2026-04

TITLE: AN ORDINANCE AMENDING SECTION 19 (AFFORDABLE HOUSING DEVELOPMENT FEES) IN CHAPTER 30 (ZONING), OF THE CODE OF THE BOROUGH OF ENGLEWOOD CLIFFS TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT (FHA) AS AMENDED, AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), AS AMENDED, REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of Englewood Cliffs filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”), entitled “In the Matter of the Application of the Borough of Englewood Cliffs,” Docket No. BER-L-775-25 on January 30, 2025; and

WHEREAS, the Borough of Englewood Cliffs is entering into a consent order, with Fair Share Housing Center, in order to carry out Englewood Cliffs’ affordable housing obligation, whereby the Code of the Borough of Englewood Cliffs is to be amended to include provisions addressing Englewood Cliffs’ constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented; and

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

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, the Borough of Englewood Cliffs Planning Board has adopted a Housing Element and Fair Share Plan on June 26, 2025 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Housing Element and Fair Share Plan have been endorsed by the Borough Council by Resolution Number 25-142 on June 27, 2025; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as

amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Englewood Cliffs as follows:

SECTION 1. Section 19 (Affordable Housing Development Fees) in Chapter 30 (Zoning) of the Code of the Borough of Englewood Cliffs is hereby amended as follows

SECTION 19 AFFORDABLE HOUSING

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the Borough of Englewood Cliffs consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
2. To the extent applicable and not inconsistent with the FHA or binding court decisions, this Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Planning Board of the Borough of Englewood Cliffs has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability

- a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
- b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
- c. Low-Income Housing Tax Credit ("LIHTC") Units. To the extent any affordable units in the HEFSP are financed under the Federal Low-Income Housing Tax Credit program (26 U.S.C. § 42), the affordability controls for such LIHTC units shall be governed by applicable federal law, the regulatory and recorded restrictions required by the New Jersey Housing and Mortgage Finance Agency and/or other allocating agency, and the project's recorded affordability documents. Except as expressly required by law, UHAC shall not apply to LIHTC units; provided, however, that newly constructed LIHTC units that receive credit pursuant to the FHA shall be affirmatively marketed in accordance with N.J.A.C. 5:80-26.16. In a mixed-income development containing both LIHTC units and non-LIHTC restricted units, the non-LIHTC restricted units shall comply with this Ordinance and UHAC, as applicable.

6. To the extent this Ordinance does not expressly address a matter relating to the administration, affordability controls, affirmative marketing, income eligibility, pricing/rent setting, sales and rental procedures, or enforcement of affordable units, and except where inconsistent with applicable law, the Municipality's court-approved compliance mechanism, or the recorded affordability controls applicable to a specific development (including LIHTC regulatory agreements), the provisions of UHAC, as amended and supplemented, shall govern and are hereby incorporated by reference.

B. Definitions

As used herein the following terms shall have the following meanings:

"Accessory apartments" means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed preexisting primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as "accessory dwelling units".

"Act" means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Adaptable" means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the

“State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

"Administrative agent" means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

“Affirmative Marketing Plan” means the municipally adopted plan of strategies from which the administrative agent will choose to implement as part of the Affirmative Marketing requirements.

“Affirmative Marketing Process” or “Program” means the actual undertaking of Affirmative Marketing activities in furtherance of each project with very low- low- and moderate-income units.

"Affordability assistance" means the use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

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

"Affordable" means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

"Affordable housing development" means a development included in a municipality's housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

"Affordable Housing Dispute Resolution Program" or "the Program" refers to the dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

"Affordable Housing Monitoring System" or "AHMS" means the Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

"Affordable unit" means a housing unit proposed or developed pursuant to the Act, including units created with municipal affordable housing trust funds.

"Age-restricted housing" means a housing unit that is designed to meet the needs of, and is exclusively for, an age-restricted segment of the population such that: 1. All the residents of the development where the unit is situated are 62 years or older; 2. At least 80 percent of the units are occupied by one person that is 55 years or older; or 3. The development has been designated by the Secretary of HUD as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

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

"Assisted living residence" means a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

"Barrier-free escrow" means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

"Builder's remedy" means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

"Certified household" means a household that has been certified by an administrative agent as a very-low-income household, a low-income household, or a moderate-income household.

"CHOICE" means the no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

"COAH" or the "Council" means the Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

"Commissioner" means the Commissioner of the Department of Community Affairs.

"Compliance certification" means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a "judgment of compliance" or "judgment of repose." The term "compliance certification" shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

"Construction" means new construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217(N.J.S.A. 52:27D-119 et seq.).

"County-level housing judge" means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal Fair Share plans and housing elements with the Act.

"DCA" and "Department" mean 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.

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

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

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement 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 the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

"Development fee" means money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

"Dispute Resolution Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

"Division" means the Division of Local Planning Services within the Department of Community Affairs.

"Emergent opportunity" means a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

"Equalized assessed value" or "EAV" 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 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

"Equity share amount" means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

"Exit sale" means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

"Exclusionary zoning litigation" means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

"Extension of expiring controls" means extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

"Fair share obligation" means the total of the present need and prospective need, including prior rounds, as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

"Fair share plan" means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development

fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Green Building Strategies” means the 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.

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

"Household income" means a household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

"Housing element" means the portion of a municipality's master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

"Housing region" means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

"Inclusionary development" means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate- income households.

“Judgment of compliance” or “judgment for repose” means a determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

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

"Mixed use development" means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

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

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

"MONI" means the no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

"Municipal housing liaison" or "MHL" means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

"Municipal affordable housing trust fund" means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

"Municipal development fee ordinance" means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

"New construction" means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

"New Jersey Affordable Housing Trust Fund" or "NJ AHTF" means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the "Neighborhood Preservation Nonlapsing Revolving Fund" and "Balanced Housing" mean the NJ AHTF.

"New Jersey Housing Resource Center" or "Housing Resource Center" means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

"95/5 restriction" means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

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

"Nonprofit" means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

"Non-residential development" means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

"Non-residential development fee" means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

"Order for repose" means the protection a municipality has from a builder's remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

"Payment in lieu of constructing affordable units" means the prior approval of the payment of funds to the municipality by a developer when affordable units were not produced on a site zoned for an inclusionary development. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

"Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

"Qualified Urban Aid Municipality" means a municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

"Person with a disability" means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

"Price differential" means the difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

"Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth

round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

“Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c. 2 (C.52:27D-313.2).

"Random selection process" means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

"RCA administrator" means an appointed municipal employee who is responsible for oversight and/or administration of affordable units and associated revenues and expenditures within the municipality that were funded through regional contribution agreements.

"RCA project plan" means a past application, submitted by a receiving municipality in an RCA, delineating the manner in which the receiving municipality intended to create or rehabilitate low- and moderate-income housing.

"Receiving municipality" means, for the purposes of an RCA, a municipality that contractually agreed to assume a portion of another municipality's fair share obligation.

"Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

"Recreational facilities and community centers" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

"Regional contribution agreement" or "RCA" means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into and was approved by COAH and/or Superior Court prior to July 18, 2008, to transfer a portion of a municipality's affordable housing obligation to another municipality within its housing region.

"Regional median income" means the median income by household size for an applicable housing region, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

"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. With respect to units in assisted living residences, rent does not include charges for food and services.

"Residential development fee" means money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of this subchapter but does not include a market-rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

"Spending plan" means a method of allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of low- and moderate-income individuals.

"State Development and Redevelopment Plan" or "State Plan" means the plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c. 398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c. 398 (C.52:18A-200).

"Supportive housing household" means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or

special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant’s self-identification of household members on the affordable housing application.

“Supportive housing sponsoring program” means grant or loan program which provided financial assistance to the development of the unit.

“Supportive housing unit” means a restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project’s Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. Supportive housing units are also referred to as permanent supportive housing units.

“Transitional housing” means temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; (2)

provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the department; and (4) allows households to remain for a minimum of six months.

"Treasurer" means the Treasurer of the State of New Jersey.

"UHAC" means the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

"Unit type" means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2 units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

"Very-low-income household" means a household with a household income less than or equal to 30 percent of the regional median income.

"Very-low-income housing" means housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

"Veteran" means a veteran as defined at N.J.S.A. 54:4-8.10.

"Veterans' preference" means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

"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.

C. Monitoring and Reporting Requirements

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

- a. The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department's website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
- b. On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.
- c. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

D. Municipality-wide Mandatory Set-Aside

1. A mandatory on-site affordable housing set-aside requirement shall apply beginning with the effective date of this article to any residential development, including the residential portion of a mixed-use project, which consists of five or more new residential units. The minimum mandatory on-site affordable housing set-aside shall be 20% for both for-sale and rental units.
2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
3. All such affordable units shall be governed by this ordinance, the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
7. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall round the set-aside upward to construct a whole additional affordable unit, regardless if the fractional unit is less than 0.5. For example, if seven total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirement above, the developer shall round up the

0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units.

E. New Construction (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.). Per the definition of “New Construction,” this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

1. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
2. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
 - a. Design of 100 percent affordable developments:
 - i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - ii. Each bedroom in each restricted unit must have at least one window.
 - iii. Restricted units must include adequate air conditioning and heating.
 - b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
 - i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development,

except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.

- ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
 - iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
 - vi. Each bedroom in each restricted unit must have at least one window.
 - vii. Restricted units must be of the same unit type as market-rate units within the same building.
 - viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
- i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for

restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.

- iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
- vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
- vii. Each bedroom in each restricted unit must have at least one window; and
- viii. Restricted units must include adequate air conditioning and heating.

4. Utilities.

- a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
- b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.A.C. 5:80-26.13(e).

5. Low/moderate split and bedroom distribution.

- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units. The municipality has chosen to allow rounding.
- c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
- d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;

- ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units. The municipality has chosen to allow rounding.
 - iv. At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units. The municipality has chosen to allow rounding.
 - v. At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units. The municipality has chosen to allow rounding.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
 - b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;

- iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
- v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
- vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (b) To this end, the builder of restricted units shall deposit funds within the municipal Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the municipal Affordable Housing Trust Fund and earmarked appropriately.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

F. Affordable Housing Programs

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH

regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.

2. Inclusionary zoning and new construction programs shall be implemented in accordance with the Borough's adopted Fourth Round Housing Element and Fair Share Plan, as amended, and consistent with the terms of the Consent Order entered between the Borough and Fair Share Housing Center on _____ [insert date], and subject to the terms of any future Order from the Court.
3. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation). The Borough may elect to facilitate the rehabilitation of units through participation in a rehabilitation program.
 - a. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, 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. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
 - b. Both ownership and rental units shall be eligible for rehabilitation funds.
 - c. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
 - d. The municipality shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
 - e. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
 - f. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
 - i. If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.

- ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant's current rent or the maximum rent permitted under UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.
- 4. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
 - a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
- 5. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
 - a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
 - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 - d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
 - e. Low- and moderate-income residents cannot be charged any upfront fees.

- f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
6. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - iii. Occupancy shall not be restricted to youth under 18 years of age.
 - iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - v. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

- vii. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- viii. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with I.1 below; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- ix. The sponsor/owner shall complete annual monitoring as directed by the MHL.
- x. The section 'Zoning for Inclusionary Development' at N.J.A.C. 5:97-6.4 details the standards for municipalities to rezone specific sites through the establishment of an inclusionary zoning district in the municipal code, but not necessarily to be included in with these affordable housing provisions to administer affordable units. Any new inclusionary zoning districts should also reference adherence with the municipal affordable housing provisions found herein. In addition, the FHA was amended per P.L. 2024, c.2 to eliminate N.J.S.A 52:27D-329.3 which had been the statutory authority for payments in-lieu of constructing affordable units.
- xi. The section 'Redevelopment' at N.J.A.C. 5:97-6.6 details the standards for municipalities to include formally designated redevelopment sites in their HEFSP. Any redevelopment sites should also reference adherence with the municipal affordable housing provisions found herein.
- xii. The section 'Municipally sponsored and 100 percent affordable developments' at N.J.A.C. 5:97-6.7 details the standards for municipalities to include 100% affordable housing sites in their HEFSP. Any such sites should also reference adherence with the municipal affordable housing provisions found herein to the extent such provisions are not superseded by state or federally funded affordable housing programs per the applicability section of UHAC at N.J.A.C. 5:80-26.1.

G. Regional Income Limits.

1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
2. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

H. Maximum Initial Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;

- d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
 9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
 10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.
 11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.
- I. Affirmative Marketing.
1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 1 and is required to be followed throughout the period of deed restriction.
3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 1 comprising Bergen, Hudson, Passaic, and Sussex Counties.
 - c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.

7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
8. In implementing the Affirmative Marketing Process, 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.
9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

J. Selection of Occupants of Affordable Housing Units.

1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

K. Occupancy Standards.

1. 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:
 - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - b. Provide a bedroom for every two adult occupants;
 - c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - d. Avoid placing a one-person household into a unit with more than one bedroom.

L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.

4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
7. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
9. 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 price-restricted ownership units.

M. Price Restrictions for Restricted Ownership Units and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set 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 standards set forth in N.J.A.C 5:80-26.7.
 - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
 - ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative

annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3

- c. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
 - i. those that render the unit suitable for a larger household or the addition of a bathroom.
 - ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
 - d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

N. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there

is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. 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, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

O. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% 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. 5:80-26.7(c).

P. Control Periods for Restricted Rental Units.

1. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
6. 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. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
7. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit;
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

Q. Rent Restrictions for Rental Units; Leases and Fees.

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.

2. 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 retained on file by the Administrative Agent.
3. No additional fees, operating costs, 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.
 - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
6. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

R. Tenant Income Eligibility.

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to

N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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

S. Municipal Housing Liaison.

1. The Municipal Housing Liaison shall be approved by municipal resolution.
2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - b. The oversight of the Affirmative Marketing Plan and affordability controls.
 - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
 - g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.

- h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
- i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in S.3.h. above has been duly recorded.
- j. Listing on the municipal website contact information for the MHL and Administrative Agents.

T. Administrative Agent.

- 1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
- 2. The fees for administrative agents shall be paid as follows:
 - a. Administrative agent fees related to rental units shall be paid by the developer/owner.
 - b. Administrative agent fees related to initial sale of units shall be paid by the developer.
 - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
- 3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
- 4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - b. Affirmative marketing:
 - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
 - c. Household certification.
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households.

- ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
- d. Affordability controls.
- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- e. Records retention.
- i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- f. Resales and re-rentals.
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.

- i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.
- i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
 - v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

U. Responsibilities of The Owner of a development containing affordable units.

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
 - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - b. The total number of units in the project and the number of affordable units.

- c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - e. A projected construction schedule.
 - f. The location of any common areas and elevators.
 - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
2. In addition to the items in U.1. above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
- a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - b. Provide to the administrative agent a description of any applicable fees.
 - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
3. In addition to the items in U.1. above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
- a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.

- e. Flood insurance requirement, if applicable.
- f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

V. Enforcement of Affordable Housing Regulations

1. 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.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable 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 any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. 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 \$10,000 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - 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 municipal 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 affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. 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- or moderate-income unit.

- a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable 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.
- b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
- e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality,

with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

- f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.
 6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
 7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
 8. Appeals
 - a. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

W. Development Fees.

1. Purpose
 - a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C.

40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

2. Basic Requirements

- a. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- b. The municipality shall not spend development fees until the court has approved a plan for spending such fees.

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.

- ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.
- v. (Reserved)

4. Non-Residential Development Fees

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

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

- i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
5. 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 by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on 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 tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
 - d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
 - e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
 - f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

- g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
 - h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
6. Appeal of development fees
- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. 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. Municipal Affordable Housing Trust Fund
- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality 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 Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;

- v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
- i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- e. All interest accrued in the municipal affordable housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be

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

- b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - 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, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- d. No more than 20% of all municipal affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

9. Monitoring

- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of

the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

- a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- b. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

11. Emergent Affordable Housing Opportunities. Requests to expend municipal affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

SECTION 3. Repealer

All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. Severability

If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION 5. Effective Date

This ordinance shall take effect upon its passage and publication, as required by law.

**Introduction and First Reading:
February 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

**Second and Final Reading of Ordinance Adoption:
March 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

Mark Park, Mayor

**This Ordinance was duly passed on second and final reading
by the Council of the Borough of Englewood Cliffs
at a meeting held March 11, 2026.**

**Beauty Nadim, RMC/CMR
Borough Clerk**

**BOROUGH OF ENGLEWOOD CLIFFS
COUNTY OF BERGEN**

ORDINANCE NO. 2026-05

TITLE: ORDINANCE TO ENACT § 30-5.20 (SOUTHERN SYLVAN AVENUE OVERLAY ZONE C) IN CHAPTER 30 (ZONING) OF THE CODE OF THE BOROUGH OF ENGLEWOOD CLIFFS TO PROVIDE DISTRICT REGULATIONS FOR AN OVERLAY ZONE AND TO ADDRESS COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

(SOUTHERN SYLVAN AVENUE OVERLAY ZONE C ORDINANCE – BLOCK 313, LOTS 1-3; BLOCK 314, LOTS 13-15, BLOCK 411, LOTS 18-23; AND BLOCK 617, LOTS 6 AND 13-17)

WHEREAS, the Borough of Englewood Cliffs (the “Borough” or “Englewood Cliffs”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 28, 2025; and

WHEREAS, the Borough’s Fourth Round fair share obligations has a Present Need of 0 units and a Prospective Need of 329 units, which no party appealed, and ordering the Borough to file a Fourth Round Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough of Englewood Cliffs Planning Board adopted the Fourth Round HEFSP, dated June 2025, on June 26, 2025 pursuant to the Municipal Land use Law at N.J.S.A. 40:550-1, et seq.; and

WHEREAS, the Fourth Round HEFSP has been endorsed by the Borough Council by Resolution Number 25-142 on June 27, 2025; and

WHEREAS, the Borough having filed its Fourth Round HEFSP on June 30, 2025 (“Adopted HEFSP”); and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s Fourth Round HEFSP on August 29, 2025; and

WHEREAS, the Borough and FSHC having agreed to amicably resolve the issues set forth in the challenges through a Consent Order filed on January 27, 2026 (“Consent Order”), which further clarifies the Borough’s compliance mechanisms through specific amendments to its Fourth Round HEFSP; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed Amended Fourth Round Housing Element and Fair Share Plan, which provides that a portion of the Borough’s Fourth Round Unmet Need obligation is to be addressed through the creation of an overlay zone at 120-110 Charlotte Place, 250-300 Sylvan Avenue, 111 Charlottle Place, 8 Rose Avenue, 330-380 Sylvan Avenue and 510-550 Sylvan Avenue, identified as Block 313, Lots 1-3; Block 314, Lots 13-15; Block 411, Lots 18-23; and Block 617, Lots 6 and 13-17 on the Borough tax maps which shall permit a maximum residential density of 20 dwelling units per acre with a required minimum 20% affordable housing set-aside; and

WHEREAS, the Borough intends to amend Chapter 30 (Zoning) of the Code of the Borough of Englewood Cliffs to establish the Southern Sylvan Avenue Overlay Zone C;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Englewood Cliffs in the County of Bergen, State of New Jersey as follows:

Section 1. The Municipal Zoning Ordinance of the Borough of Englewood Cliffs is hereby supplemented and amended by the creation and establishment of new § 30-5.20 to be entitled “Southern Sylvan Avenue Overlay Zone C” to read as follows:

§ 30-5.20 SOUTHERN SYLVAN AVENUE OVERLAY ZONE C.

§ 30-5.20.1 Purpose.

- a. To implement the Consent Agreement between the Borough of Englewood Cliffs and Fair Share Housing Center dated January 27, 2026 (Docket No. BER-L-775-25) by permitting Block 313, Lots 1-3; Block 314, Lots 13-15; Block 411, Lots 18-23; and Block 617, Lots 6 and 13-17, with a street address of 120-110 Charlotte Place, 250-300 Sylvan Avenue, 111 Charlottle Place, 8 Rose Avenue, 330-380 Sylvan Avenue and 510-550 Sylvan Avenue, to be developed with inclusionary multifamily residential housing based upon the standards set forth herein.
- b. This section establishes the Southern Sylvan Avenue Overlay Zone C, which shall be applied, as shown in the attached map as Attachment A, in the following areas:^[1]
 1. Southern Sylvan Avenue Overlay Zone C, the area consisting of specific properties located along Sylvan Avenue, northeast of Middlesex Avenue and southwest of Sherwood Avenue, and the area consisting of specific properties northeast of Palisade Avenue and southwest of Demarest Avenue, which is comprised of the existing B-2 and B-4 Zoning Districts. The Overlay Zone shall apply only to the following properties: Block 313, Lots 1-3; Block 314, Lots 13-15; Block 411, Lots 18-23; and Block 617, Lots 6 and 13-17.

[1] *Attachments on file in the Borough offices.*

- c. The Southern Sylvan Avenue Overlay Zone C shall permit a maximum density of 20 residential units per acre with a minimum 20 percent affordable set-aside for rental and/or for-sale units. The affordable units shall not be age restricted.
- d. Definitions. The following terms, as used in this section, shall have the following meanings:

AVERAGE FINISHED GRADE

Shall mean the average finished grade of a building or structure measured at intervals of ten (10) feet along each exterior wall of the building or structure, i.e. the sum of the results of such finished grade measurements, divided by the number of such measurements.

BUILDING COVERAGE

Shall mean that portion of a lot covered by the largest floor area of all structures, both principal and accessory.

BUILDING HEIGHT, ACCESSORY BUILDING OR STRUCTURE

Shall mean the measurement from the average finished grade to the midpoint of the roof for pitched roofs and the highest point of the roof deck for flat roofs, for any accessory buildings or structures.

BUILDING HEIGHT, MULTI-FAMILY DWELLING, TOWNHOUSE OR STACKED TOWNHOUSE

Shall mean the measurement of the vertical distance from the Average Finished Grade to the highest point of the roof deck which intersects the building's exterior walls.

DWELLING, MULTI-FAMILY

Shall mean a building containing three (3) or more dwelling units, including units that are located one over another, where entranceways, hallways, basements, attics, storage areas, heating systems, yards and similar services in the building may be individual, shared in common, or in combination.

ELEVATION ABOVE MEAN SEA LEVEL

Shall be defined as a measure of the vertical distance of a location in reference to the mean sea level (MSL) based on the National Geodetic Vertical Datum of 1929 (see the NOAA, National Geodetic Survey website:

<https://www.ngs.noaa.gov/datums/vertical/national-geodetic-vertical-datum-1929.shtml>)

MULTI-FAMILY FLOOR AREA RATIO

Shall mean the area of all floors of multi-family buildings, including spaces within multi-family buildings used for off-street parking or loading.

STORY

Shall mean the portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

§ 30-5.20.2 Permitted Uses.

- a. Principal Permitted Uses:
 - A. Multifamily residential uses provided at a maximum density of twenty (20) dwellings units per acre, and where a minimum twenty percent (20%) affordable housing set-aside shall be required in accordance with applicable Borough Ordinances.
 - B. Existing principal permitted uses of the underlying zone(s) are not modified or affected by the establishment of this overlay zone.
- b. Prohibited Uses: All prohibited uses in the underlying zone(s) zone shall be prohibited.
- c. Conditional Uses: All conditional uses permitted in the underlying zone(s) shall continue to be conditional uses.
- d. Permitted accessory uses and structures. The following uses and structures shall be permitted:
 1. Amenities ancillary to multi-family residential, such as lobbies, fitness centers, storage areas for the residents of the multi-family buildings, and common area meeting rooms for the residents of the building.
 2. Active and passive outdoor recreation areas.
 3. Common indoor open space areas.
 4. Parking spaces, driveways, structured multi-level parking garages provided that any structured parking is enclosed with the same building materials and finishes used for the main portion of the multi-family residential building.
 5. Refuse and recycling building and/or structure.
 6. Stationary generators.
 7. Fences and walls.
 8. Signage.
 9. HVAC equipment and utility cabinets/controllers.
 10. Temporary construction trailers, temporary sales trailer, and/or temporary sales office through final project Certificate of Occupancy.
 11. Any use or structure that is customarily incidental and subordinate to the principal use of land or building located on the same lot.

§ 30-5.20.3 Area, Yard and Bulk Requirements

- a. Area, Yard and Bulk Requirements for the properties in Southern Sylvan Avenue Overlay Zone C with underlying zoning of the B-2 (Limited Business) Zone:
 1. Minimum gross lot area: 80,000 square feet.
 2. Minimum lot width: 125 feet.
 3. Maximum Residential Density. 20 units/acre.
 4. Minimum affordable housing set-aside: 20%
 5. Minimum front yard: 60 feet.
 6. Minimum rear yard: 20% of lot depth.
 7. Minimum side yard (one side): 30 feet.

8. Minimum side yard (both sides): 60 feet.
9. Minimum corner side yard: 30 feet.
10. Maximum impervious coverage: sixty-five percent (65%) of total lot area.
11. Maximum building coverage: fifty percent (50%) of total lot area.
12. Maximum Height.
 - a) The Maximum building elevation shall be three stories and thirty-five feet and in accordance with the chart referenced under § 30-5.20.9(E) of the Borough Code.
 - b) Rooftop Appurtenances:
 1. Rooftop equipment and appurtenances, including elevators, elevator overrides, air conditioning equipment, egress stair towers and similar structures ("Rooftop Appurtenances"), shall be permitted to exceed the maximum building height permitted herein subject to the following requirements.
 2. Rooftop Appurtenances shall be permitted to exceed the maximum height permitted herein provided that such equipment or structures do not occupy more than 20% of total roof area. No more than 5% of the total roof area may be occupied by equipment or structures measuring up to 10 feet in height, and the remaining 15% of the total roof area may be occupied by equipment or structures measuring up to 5 feet in height.
 3. All Rooftop Appurtenances not otherwise shielded by a parapet shall be screened or otherwise visually mitigated.
All mechanical equipment shall be set back a minimum of 10 feet from the edge of any roof or raised parapet. If equipment is not screened by a parapet, it shall be otherwise screened such that it is not visible from eye-level on adjacent public street.

b. Area, Yard and Bulk Requirements for the properties in Southern Sylvan Avenue Overlay Zone C with underlying zoning of the B-4 (Restricted Commercial) Zone:

1. Minimum gross lot area: 10,000 square feet.
2. Minimum lot width: 100 feet.
3. Maximum Residential Density: 20 units/acre.
4. Minimum affordable housing set-aside: 20%
5. Minimum front yard: 20 feet.
6. Minimum rear yard: 20% of lot depth.
7. Minimum side yard (one side): 10 feet.
8. Minimum side yard (both sides): 22 feet.
9. Minimum corner side yard: 15 feet.

10. Maximum lot coverage: sixty-five percent (65%) of total lot area.
11. Maximum building coverage: fifty percent (50%) of total lot area.
12. Maximum Height.
 - a) The Maximum building elevation shall be three stories and thirty-five feet and in accordance with the chart referenced under § 30-5.20.9(E) of the Borough Code.
 - b) Rooftop Appurtenances:
 1. Rooftop equipment and appurtenances, including elevators, elevator overrides, air conditioning equipment, egress stair towers and similar structures ("Rooftop Appurtenances"), shall be permitted to exceed the maximum building height permitted herein subject to the following requirements.
 2. Rooftop Appurtenances shall be permitted to exceed the maximum height permitted herein provided that such equipment or structures do not occupy more than 20% of total roof area. No more than 5% of the total roof area may be occupied by equipment or structures measuring up to 10 feet in height, and the remaining 15% of the total roof area may be occupied by equipment or structures measuring up to 5 feet in height.
 3. All Rooftop Appurtenances not otherwise shielded by a parapet shall be screened or otherwise visually mitigated.
All mechanical equipment shall be set back a minimum of 10 feet from the edge of any roof or raised parapet. If equipment is not screened by a parapet, it shall be otherwise screened such that it is not visible from eye-level on adjacent public street.

§ 30-5.20.4 Affordable Housing Requirements.

- a. Affordable units provided shall be constructed, administered, and monitored in conformance with the requirements of amended Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), UHAC (N.J.A.C. 5:80-26.1 et seq.), N.J.A.C. 5:99, and the Borough's affordable housing regulations per Sections 30-19, 30-19A, and 30-19B in Chapter 30 of the Ordinances of the Borough of Englewood Cliffs.

§ 30-5.20.5 Off-Street Parking and Parking Design Requirements.

- a. All off-street parking and loading areas shall conform to the provisions of Borough Code.
- b. The minimum parking requirement shall be 1.7 spaces per dwelling unit.
- c. Off-street parking may be located in surface parking areas and/or within a building as established herein.

- d. Tandem spaces (where one parking space is located directly behind or in front of another parking space) where each space comprising the tandem is to be designated for use by a single unit, each space comprising the tandem shall each be counted as a separate and distinct space with each being credited towards compliance with the RSIS parking requirement.

§ 30-5.20.6 Buffer and General Landscaping Requirements.

- a. Buffer requirements shall be provided for all multi-family development as required for non-residential uses in the underlying zone under the provisions of Borough Code § 30-7.10.
- b. The front yard setback area along Sylvan Avenue shall be landscaped with a mixture of deciduous and evergreen trees and shrubs and lawn areas coordinated with any stormwater management facilities.
- c. Any development that fronts the Palisades Interstate Parkway shall specifically provide adequate screening along any setback from the Palisades Interstate Parkway so as to protect its scenic quality and take other mitigating actions to protect the view from the Palisades Interstate Parkway.
- d. In addition to the provisions in the Borough Code, all buffers shall comply with the following standards:
 - i. Only natural materials may be used.
 - ii. Trees shall be evergreen, hardy, or other similar tall trees and vegetation at least six to eight feet in height and two inches in caliper when planted and be of a species common to the area.
 - iii. No structure, storage of materials or parking of vehicles shall be permitted in a buffer area.
 - iv. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers.
 - v. The location and design of buffers shall consider the use and scale of the portion of the property being screened; the distance between the use and the adjoining property line; and differences in elevations.
 - vi. The preservation of all natural wooded tracts and rock outcroppings shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided that the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said plantings may be required.
- e. Landscaping Requirements.
 - 1. A landscape plan prepared by a landscape architect licensed in the State of New Jersey shall be submitted and shall include details for all decorative features. The plan shall identify proposed trees, shrubs, ground cover, and other landscaping elements. When existing natural growth is proposed to remain, the applicant shall include in the plans the proposed methods to protect existing trees and growth during and after construction.

2. Landscaping plans shall be professionally drawn and conform to the design principles described herein with a goal to mitigate visual intrusion of any development upon the Palisades.
3. Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design creating a pleasing site character which mitigates the impact of structures.
4. Landscaping shall be used to accent and complement buildings. For example, where appropriate, groupings of tall trees to break up long, low buildings and lower planting for taller buildings.
5. Provide a variety and mixture of landscaping. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage.
6. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing a variety of landscape material, including but not limited to landscaped fencing, shrubbery, lawn area, ground cover, and trees. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage. The use of coniferous and/or deciduous trees native to the area shall be used to lessen the visual impact for the structures and paved areas.
7. All plant material shall consist of native landscape plantings.
8. Local soil conditions and water availability shall be considered in the choice of landscaping.
9. Assure that no aspect of the landscape design inhibits access to the development by emergency vehicles.
10. Applicant shall maintain and enhance any visual buffers of the new development from the vantage points referenced in the required Professional Viewshed Survey.
11. All development applications shall also comply with the landscaping requirements in the Borough Ordinances.

§ 30-5.20.7 Building and Architectural Standards.

- a. The preservation of the viewshed of the Palisades is a critically important aesthetic and scenic design consideration. The applicant shall demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.
- b. Buildings shall be designed with each of a building's facade being of similar importance and shall have a base, middle and top. Building facades may be articulated both horizontally and vertically. Architectural devices such as providing string courses, cornices and sub-corniced, raised parapets, and/or horizontally differentiating surface treatments maybe be used to aid articulation and transitions. Bay windows and projections at each facade may also be used to create varied articulation in the design.

- c. Upper level facades shall be articulated to provide architectural interest. Frontages shall have at least one window appropriately proportioned per structural bay. Building designs may utilize various types of materials and material changes for facade articulation. The intent of this required articulation is to create interesting and varied building facades such that the building facades do not read as uniform or continuous slabs along the streetscape.
- d. Exterior facade materials may consist of, but not limited to, masonry brick veneer, manufactured cast stone veneer, precast sills and bands, fiber cement siding panels, accent composite metal panels, composite wood panels and similar materials. Exterior materials may further include windows, PVC trim, and architectural metal canopies.
- e. Windows shall be double-glazed and vinyl- or metal-cased in all residential portions of the building. Differentiated glazing treatment and building materials may be used at the lobby entrance and other feature areas.
- f. All mechanical equipment shall be set back a minimum of 10 feet from the edge of any roof or raised parapet. If equipment is not screened by a parapet, it shall be otherwise screened such that it is not visible from eye-level on adjacent public streets.
- g. Elevator overrides, egress stair towers, and/or rooftop projections (excluding mechanical equipment) measuring greater than 5 feet in height shall be clad with materials which do not contrast with the materials used on the upper level of the building facade.
- h. All building elevations shall be constructed to the same level of architectural interest, design and use of building materials.

§ 30-5.20.8 Refuse and Recycling Requirements.

- a. Adequate facilities shall be provided for the handling of garbage, recycling, and other refuse by providing and maintaining a screened enclosure, a separate building, or an interior area within the multi-family dwelling where all trash and refuse containers shall be stored while awaiting pickup.
- b. A refuse and recycling building that is appropriately sized for the development shall be provided at a minimum of 5 square feet for unit.

§ 30-5.20.9 Palisades Scenic Integrity Protection.

- a. The Preservation of the viewshed of the Palisades is a critically important aesthetic and scenic consideration. The Palisades Scenic Integrity Protection standards require the applicant to demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.
- b. The developer shall provide studies, reports and testimony demonstrating that any proposed development meets the height limitations for this overlay zone and complies with the standards of this section.

- c. Notwithstanding any other requirement of the Borough Code, no application shall be deemed complete unless the developer has provided a copy of the application and plans to the Executive Director of the Palisades Interstate Park Commission.
- d. Additionally, Applicant will demonstrate that the proposed development will avoid adversely affecting the scenic integrity of the Palisades Interstate Parkway.
- e. Maximum Building Elevation:

Block	Lot	ASL Maximum
313	1	380'
313	2	336'
313	3	291'
314	13	379'
314	14	372'
314	15	367'
411	18	406'
411	19	395'
411	20	385'
411	21	385'
411	22	390'
411	23	378'
617	6	376'
617	13	378'
617	14	381'
617	15	381'
617	16	378'
617	17	374'

§ 30-5.20.10 Infrastructure Improvements.

- a. All new electric, telephone, television, cable, gas, and other utility service lines servicing the buildings shall be installed underground, to the extent such underground service is commercially reasonable, available and permitted by the applicable utility companies, and in all events, shall be installed in accordance with the prevailing standards and practices of the respective utility or other companies providing such services.
- b. The Borough has not prepared utility, roadway or traffic studies on the existing conditions, capacity, or reports on upgrades required to support the proposed development. As directed by the Borough Engineer and/or Board Engineer, the Developer shall provide utility, roadway and traffic studies evaluating the existing conditions, capacity and details of any necessary upgrades required to support the proposed development. The Developer shall be responsible for contributing towards any infrastructure upgrades in accordance with the Municipal Land Use Law (MLUL).

§ 30-5.20.11 Green Building Standards.

- a. All development shall incorporate green building design practices consistent with the New Jersey Green Building Manual or equivalent national standards.
- b. Site and building design shall promote energy efficiency, water conservation, indoor environmental quality, and sustainable material use through:
 1. Energy-efficient lighting and HVAC systems;
 2. Use of renewable energy sources, including solar photovoltaic or solar thermal systems;
 3. Low-impact development strategies such as pervious paving and rain gardens;
 4. Water-efficient landscaping utilizing native and drought-tolerant species; and
 5. Recycling and reuse of construction materials when able.
- c. Green roofs or rooftop vegetation are encouraged for stormwater management.
- d. Developers shall include Green Building plans outlining compliance measures as part of the site plan application.

§ 30-5.20.12 Climate Resiliency.

- a. Development shall incorporate climate adaptation and resiliency strategies consistent with N.J.A.C. 7:8 (Stormwater Management) and the Borough's Stormwater Management Ordinances. In computing pre-construction stormwater runoff, the design engineer shall consider that no more than 50 percent of the existing impervious surface is impervious. For the purposes of this calculation, all other surfaces shall be considered as wood in good condition.
- b. Projects shall evaluate vulnerabilities to localized flooding, extreme heat, and severe weather events and incorporate mitigation measures such as:
 1. Risen floor elevations above FEMA base flood elevations where applicable;
 2. On-site stormwater detention, infiltration features and other non-structural measures to minimize and mitigate localized flooding;
 3. Use of flood-tolerant landscaping and tree canopy for cooling, shade, and reforestation to mitigate stormwater runoff and flooding;
 4. Backup power and grid-ready infrastructure to maintain systems during outages.
- c. All development applications shall include a Climate Resiliency Assessment demonstrating how the proposed development addressed projected climate impacts and enhances resilience.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Englewood Cliffs, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Englewood Cliffs are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Englewood Cliffs for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**Introduction and First Reading:
February 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

**Second and Final Reading of Ordinance Adoption:
March 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

Mark Park, Mayor

**This Ordinance was duly passed on second and final reading
by the Council of the Borough of Englewood Cliffs
at a meeting held March 11, 2026.**

**Beauty Nadim, RMC/CMR
Borough Clerk**

**BOROUGH OF ENGLEWOOD CLIFFS
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-06

TITLE: AN ORDINANCE TO ENACT § 30-5.19 (SOUTHERN SYLVAN AVENUE OVERLAY ZONE D) IN CHAPTER 30 (ZONING) OF THE CODE OF THE BOROUGH OF ENGLEWOOD CLIFFS TO PROVIDE DISTRICT REGULATIONS FOR AN OVERLAY ZONE AND TO ADDRESS COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

(SOUTHERN SYLVAN AVENUE OVERLAY ZONE D ORDINANCE – BLOCK 130, LOTS 22-25; BLOCK 314, LOTS 10-12; AND BLOCK 411, LOTS 16-17)

WHEREAS, the Borough of Englewood Cliffs (the “Borough” or “Englewood Cliffs”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 28, 2025; and

WHEREAS, the Borough’s Fourth Round fair share obligations have a Present Need of 0 units and a Prospective Need of 329 units, which no party appealed, and ordering the Borough to file a Fourth Round Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough of Englewood Cliffs Planning Board adopted the Fourth Round HEFSP, dated June 2025 on June 26, 2025 pursuant to the Municipal Land use Law at N.J.S.A. 40:550-1, et seq.; and

WHEREAS, the Fourth Round HEFSP has been endorsed by the Borough Council by Resolution Number 25-142 on June 27, 2025; and

WHEREAS, the Borough having filed its Fourth Round HEFSP on June 30, 2025 (“Adopted HEFSP”); and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s Fourth Round HEFSP on August 29, 2025; and

WHEREAS, the Borough and FSHC having agreed to amicably resolve the issues set forth in the challenges through a Consent Order filed on January 27, 2026 (“Consent Agreement”), which further clarifies the Borough’s compliance mechanisms through specific amendments to its Fourth Round HEFSP; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed Amended Fourth Round Housing Element and Fair Share Plan, which provides that a portion of the Borough's Fourth Round Unmet Need obligation is to be addressed through the creation of an overlay zone at 50-210 Sylvan Avenue and 400-440 Sylvan Avenue, identified as Block 130, Lots 22-25, Block 314, Lots 10-12, and Block 411, Lots 16 and 17 on the Borough tax maps which shall permit a maximum residential density of 20 dwelling units per acre with a required minimum 20% affordable housing set-aside, and

WHEREAS, the Borough intends to amend Chapter 30 (Zoning) of the Code of the Borough of Englewood Cliffs to establish the Southern Sylvan Avenue Overlay Zone D;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Englewood Cliffs in the County of Bergen, State of New Jersey as follows:

Section 1. The Municipal Zoning Ordinance of the Borough of Englewood Cliffs is hereby supplemented and amended by the creation and establishment of new § 30-5-19 to be entitled "Southern Sylvan Avenue Overlay Zone D" to read as follows:

§ 30-5.19 SOUTHERN SYLVAN AVENUE OVERLAY ZONE D.

§ 30-5.19.1 Purpose.

- a. To implement the Consent Agreement between the Borough of Englewood Cliffs and Fair Share Housing Center dated January 27, 2026 (Docket No. BER-L-775-25) by permitting Block 130, Lots 22-25, Block 314, Lots 10-12, and Block 411, Lots 16 and 17, with a street address of 50-210 Sylvan Avenue and 400-440 Sylvan Avenue, to be developed with inclusionary multifamily residential affordable housing based upon the standards set forth herein.
- b. This section establishes the Southern Sylvan Avenue Overlay Zone D, which shall be applied, as shown in the attached map as Attachment A, in the following areas:
 1. Southern Sylvan Avenue Overlay Zone D, the area located along Sylvan Avenue, northeast of Van Nostrand Avenue and southwest of Sherwood Avenue - which is only comprised of the existing B-2 Zoning District and shall only apply to the following properties, specifically: Block 130, Lots 22-25, Block 314, Lots 10-12, and Block 411, Lots 16 and 17.

[1] *Attachments on file in the Borough offices.*

- c. The Southern Sylvan Avenue Overlay Zone D shall permit a maximum density of 20 residential units per acre with a minimum 20 percent affordable set-aside for rental and/or for-sale units. The affordable units shall not be age restricted.
- d. Definitions. The following terms, as used in this section, shall have the following meanings:

AVERAGE FINISHED GRADE

Shall mean the average finished grade of a building or structure measured at intervals of ten (10) feet along each exterior wall of the building or structure, i.e. the sum of the results of such finished grade measurements, divided by the number of such measurements.

BUILDING COVERAGE

Shall mean that portion of a lot covered by the largest floor area of all structures, both principal and accessory.

BUILDING HEIGHT, ACCESSORY BUILDING OR STRUCTURE

Shall mean the measurement from the average finished grade to the midpoint of the roof for pitched roofs and the highest point of the roof deck for flat roofs, for any accessory buildings or structures.

BUILDING HEIGHT, MULTI-FAMILY DWELLING, TOWNHOUSE OR STACKED TOWNHOUSE

Shall mean the measurement of the vertical distance from the Average Finished Grade to the highest point of the roof deck which intersects the building's exterior walls.

DWELLING, MULTI-FAMILY

Shall mean a building containing three (3) or more dwelling units, including units that are located one over another, where entranceways, hallways, basements, attics, storage areas, heating systems, yards and similar services in the building may be individual, shared in common, or in combination.

ELEVATION ABOVE MEAN SEA LEVEL

Shall be defined as a measure of the vertical distance of a location in reference to the mean sea level (MSL) based on the National Geodetic Vertical Datum of 1929 (see the NOAA, National Geodetic Survey website:
<https://www.ngs.noaa.gov/datums/vertical/national-geodetic-vertical-datum-1929.shtml>)

MULTI-FAMILY FLOOR AREA RATIO

Shall mean the area of all floors of multi-family buildings, including spaces within multi-family buildings used for off-street parking or loading.

STORY

Shall mean the portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

§ 30-5.19.2 Permitted Uses.

- a. Principal Permitted Uses:
 - A. Multifamily residential uses provided at a maximum density of twenty (20) dwellings units per acre, and where a minimum twenty percent (20%) affordable housing set-aside shall be required in accordance with applicable Borough Ordinances.
 - B. Existing principal permitted uses of the underlying zone(s) are not modified or affected by the establishment of this overlay zone.
- b. Prohibited Uses: All prohibited uses in the underlying zone(s) shall be prohibited.
- c. Conditional Uses: All conditional uses permitted in the underlying zone(s) shall continue to be conditional uses.
- d. Permitted accessory uses and structures. The following uses and structures shall be permitted:
 - 1. Amenities ancillary to multi-family residential, such as lobbies, fitness centers, storage areas for the residents of the multi-family buildings, and common area meeting rooms for the residents of the building.
 - 2. Active and passive outdoor recreation areas.
 - 3. Common indoor open space areas.
 - 4. Parking spaces, driveways, structured multi-level parking garages provided that any structured parking is enclosed with the same building materials and finishes used for the main portion of the multi-family residential building.
 - 5. Refuse and recycling building and/or structure.
 - 6. Stationary generators.
 - 7. Fences and walls.
 - 8. Signage.
 - 9. HVAC equipment and utility cabinets/controllers.
 - 10. Temporary construction trailers, temporary sales trailer, and/or temporary sales office through final project Certificate of Occupancy.
 - 11. Any use or structure that is customarily incidental and subordinate to the principal use of land or building located on the same lot.

§ 30-5.19.3 Area, Yard and Bulk Requirements.

- a. Minimum gross lot area: 80,000 square feet.
- b. Minimum lot width: 125 feet.
- c. Maximum Residential Density: 20 units/acre.
- d. Minimum affordable housing set-aside: 20%
- e. Minimum front yard: 60 feet.
- f. Minimum rear yard: 20% of lot depth.
- g. Minimum side yard (one side): 30 feet.
- h. Minimum side yard (both sides): 60 feet.
- i. Minimum corner side yard: 30 feet.

- j. Maximum lot coverage: sixty-five percent (65%) of total lot area.
- k. Maximum building coverage: fifty percent (50%) of total lot area.
- l. Maximum Height.
 - a. The Maximum building height shall be three stories and thirty-five feet and in accordance with the chart referenced under § 30-5.19.9(E) of the Borough Code.
 - b. Rooftop Appurtenances:
 - i. Rooftop equipment and appurtenances, including elevators, elevator overrides, air conditioning equipment, egress stair towers and similar structures ("Rooftop Appurtenances"), shall be permitted to exceed the maximum building height permitted herein subject to the following requirements.
 - ii. Rooftop Appurtenances shall be permitted to exceed the maximum height permitted herein provided that such equipment or structures do not occupy more than 20% of total roof area. No more than 5% of the total roof area may be occupied by equipment or structures measuring up to 10 feet in height, and the remaining 15% of the total roof area may be occupied by equipment or structures measuring up to 5 feet in height.
 - iii. All Rooftop Appurtenances not otherwise shielded by a parapet shall be screened or otherwise visually mitigated.
 - iv. All mechanical equipment shall be set back a minimum of 10 feet from the edge of any roof or raised parapet. If equipment is not screened by a parapet, it shall be otherwise screened such that it is not visible from eye-level on adjacent public street.

§ 30-5.19.4 Affordable Housing Requirements.

- a. Affordable units provided shall be constructed, administered, and monitored in conformance with the requirements of amended Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), UHAC (N.J.A.C. 5:80-26.1 et seq.), N.J.A.C. 5:99, and the Borough's affordable housing regulations per Sections 30-19, 30-19A, and 30-19B in Chapter 30 of the Ordinances of the Borough of Englewood Cliffs.

§ 30-5.19.5 Off-Street Parking and Parking Design Requirements.

- a. All off-street parking and loading areas shall conform to the provisions of Borough Code.
- b. The minimum parking requirement shall be 1.7 spaces per dwelling unit.
- c. Off-street parking may be located in surface parking areas and/or within a building as established herein.
- d. Tandem spaces (where one parking space is located directly behind or in front of another parking space) where each space comprising the tandem is to be designated for use by a single unit, each space comprising the tandem shall each be counted as a separate and distinct space with each being credited towards compliance with the RSIS parking requirement.

§ 30-5.19.6 Buffer and General Landscaping Requirements.

- a. Buffer requirements shall be provided for all multi-family development as required for non-residential uses in the underlying zone under the provisions of Borough Code § 30-7.10.
- b. The front yard setback area along Sylvan Avenue shall be landscaped with a mixture of deciduous and evergreen trees and shrubs and lawn areas coordinated with any stormwater management facilities.
- c. Any development that fronts the Palisades Interstate Parkway shall specifically provide adequate screening along any setback from the Palisades Interstate Parkway so as to protect its scenic quality and take other mitigating actions to protect the view from the Palisades Interstate Parkway.
- d. In addition to the provisions in the Borough Code, all buffers shall comply with the following standards:
 - i. Only natural materials may be used.
 - ii. Trees shall be evergreen, hardy, or other similar tall trees and vegetation at least six to eight feet in height and two inches in caliper when planted and be of a species common to the area.
 - iii. No structure, storage of materials or parking of vehicles shall be permitted in a buffer area.
 - iv. The standards for the location and design of buffer areas are intended to provide flexibility in order to provide effective buffers.
 - v. The location and design of buffers shall consider the use and scale of the portion of the property being screened; the distance between the use and the adjoining property line; and differences in elevations.
 - vi. The preservation of all natural wooded tracts and rock outcroppings shall be an integral part of all site plans and may be calculated as part of the required buffer area, provided that the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Where additional plantings are necessary to establish an appropriate tone for an effective buffer, said plantings may be required.
- e. Landscaping Requirements.
 1. A landscape plan prepared by a landscape architect licensed in the State of New Jersey shall be submitted and shall include details for all decorative features. The plan shall identify proposed trees, shrubs, ground cover, and other landscaping elements. When existing natural growth is proposed to remain, the applicant shall include in the plans the proposed methods to protect existing trees and growth during and after construction.
 2. Landscaping plans shall be professionally drawn and conform to the design principles described herein with a goal to mitigate visual intrusion of any development upon the Palisades.
 3. Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design creating a pleasing site character which mitigates the impact of structures.

4. Landscaping shall be used to accent and complement buildings. For example, where appropriate, groupings of tall trees to break up long, low buildings and lower planting for taller buildings.
5. Provide a variety and mixture of landscaping. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage.
6. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing a variety of landscape material, including but not limited to landscaped fencing, shrubbery, lawn area, ground cover, and trees. The variety shall consider susceptibility to disease, colors, season, textures, shapes, blossoms, and foliage. The use of coniferous and/or deciduous trees native to the area shall be used to lessen the visual impact for the structures and paved areas.
7. All plant material shall consist of native landscape plantings.
8. Local soil conditions and water availability shall be considered in the choice of landscaping.
9. Assure that no aspect of the landscape design inhibits access to the development by emergency vehicles.
10. Applicant shall maintain and enhance any visual buffers of the new development from the vantage points referenced in the required Professional Viewshed Survey.
11. All development applications shall also comply with the landscaping requirements in the Borough Ordinances.

§ 30-5.19.7 Building and Architectural Standards.

- a. The preservation of the viewshed of the Palisades is a critically important aesthetic and scenic design consideration. The applicant shall demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.
- b. Buildings shall be designed with each of a building's facade being of similar importance and shall have a base, middle and top. Building facades may be articulated both horizontally and vertically. Architectural devices such as providing string courses, cornices and sub-corniced, raised parapets, and/or horizontally differentiating surface treatments maybe be used to aid articulation and transitions. Bay windows and projections at each facade may also be used to create varied articulation in the design.
- c. Upper level facades shall be articulated to provide architectural interest. Frontages shall have at least one window appropriately proportioned per structural bay. Building designs may utilize various types of materials and material changes for facade articulation. The intent of this required articulation is to create interesting and varied building facades such that the building facades do not read as uniform or continuous slabs along the streetscape.

- d. Exterior facade materials may consist of, but not limited to, masonry brick veneer, manufactured cast stone veneer, precast sills and bands, fiber cement siding panels, accent composite metal panels, composite wood panels and similar materials. Exterior materials may further include windows, PVC trim, and architectural metal canopies.
- e. Windows shall be double-glazed and vinyl- or metal-cased in all residential portions of the building. Differentiated glazing treatment and building materials may be used at the lobby entrance and other feature areas.
- f. All mechanical equipment shall be set back a minimum of 10 feet from the edge of any roof or raised parapet. If equipment is not screened by a parapet, it shall be otherwise screened such that it is not visible from eye-level on adjacent public streets.
- g. Elevator overrides, egress stair towers, and/or rooftop projections (excluding mechanical equipment) measuring greater than 5 feet in height shall be clad with materials which do not contrast with the materials used on the upper level of the building facade.
- h. All building elevations shall be constructed to the same level of architectural interest, design and use of building materials.

§ 30-5.19.8 Refuse and Recycling Requirements.

- a. Adequate facilities shall be provided for the handling of garbage, recycling, and other refuse by providing and maintaining a screened enclosure, a separate building, or an interior area within the multi-family dwelling where all trash and refuse containers shall be stored while awaiting pickup.
- b. A refuse and recycling building that is appropriately sized for the development shall be provided at a minimum of 5 square feet for unit.

§ 30-5.19.9 Palisades Scenic Integrity Protection.

- a. The Preservation of the viewshed of the Palisades is a critically important aesthetic and scenic consideration. The Palisades Scenic Integrity Protection standards require the applicant to demonstrate that the proposed development would not adversely affect the scenic integrity of the Palisades Interstate Park and its surroundings when viewed from vantage points east and south of the Palisades, specifically the George Washington Bridge center and the Cloisters Terrace and high point of Fort Tryon Park, Manhattan.
- b. The developer shall provide studies, reports and testimony demonstrating that any proposed development meets the height limitations for this overlay zone and complies with the standards of this section.
- c. Notwithstanding any other requirement of the Borough Code, no application shall be deemed complete unless the developer has provided a copy of the application and plans to the Executive Director of the Palisades Interstate Park Commission.
- d. Additionally, Applicant will demonstrate that the proposed development will avoid adversely affecting the scenic integrity of the Palisades Interstate Parkway.
- e. Maximum Building Elevation:

Block	Lot	ASL Maximum
130	22	411'
130	23	407'
130	24	411'
130	25	408'
314	10	406'
314	11	398'
314	12	389'
411	16	395'
411	17	398'

§ 30-5.19.10 Infrastructure Improvements.

- a. All new electric, telephone, television, cable, gas, and other utility service lines servicing the buildings shall be installed underground, to the extent such underground service is commercially reasonable, available and permitted by the applicable utility companies, and in all events, shall be installed in accordance with the prevailing standards and practices of the respective utility or other companies providing such services.
- b. The Borough has not prepared utility, roadway or traffic studies on the existing conditions, capacity, or reports on upgrades required to support the proposed development. As directed by the Borough Engineer and/or Board Engineer, the Developer shall provide utility, roadway and traffic studies evaluating the existing conditions, capacity and details of any necessary upgrades required to support the proposed development. The Developer shall be responsible for contributing towards any infrastructure upgrades in accordance with the Municipal Land Use Law (MLUL).

§ 30-5.19.11 Green Building Standards.

- a. All development shall incorporate green building design practices consistent with the New Jersey Green Building Manual or equivalent national standards.
- b. Site and building design shall promote energy efficiency, water conservation, indoor environmental quality, and sustainable material use through:
 1. Energy-efficient lighting and HVAC systems;
 2. Use of renewable energy sources, including solar photovoltaic or solar thermal systems;
 3. Low-impact development strategies such as pervious paving and rain gardens;
 4. Water-efficient landscaping utilizing native and drought-tolerant species; and
 5. Recycling and reuse of construction materials when able.
- c. Green roofs or rooftop vegetation are encouraged for stormwater management.
- d. Developers shall include Green Building plans outlining compliance measures as part of the site plan application.

§ 30-5.19.12 Climate Resiliency.

- a. Development shall incorporate climate adaptation and resiliency strategies consistent with N.J.A.C. 7:8 (Stormwater Management) and the Borough's Stormwater Management Ordinances. In computing pre-construction stormwater runoff, the design engineer shall consider that no more than 50 percent of the existing impervious surface is impervious. For the purposes of this calculation, all other surfaces shall be considered as wood in good condition.
- b. Projects shall evaluate vulnerabilities to localized flooding, extreme heat, and severe weather events and incorporate mitigation measures such as:
 1. Risen floor elevations above FEMA base flood elevations where applicable;
 2. On-site stormwater detention, infiltration features and other non-structural measures to minimize and mitigate localized flooding;
 3. Use of flood-tolerant landscaping and tree canopy for cooling, shade, and reforestation and buffering to mitigate stormwater runoff and flooding;
 4. Backup power and grid-ready infrastructure to maintain systems during outages.
- c. All development applications shall include a Climate Resiliency Assessment demonstrating how the proposed development addressed projected climate impacts and enhances resilience.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Englewood Cliffs, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Englewood Cliffs are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Englewood Cliffs for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

**Introduction and First Reading:
February 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
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Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

**Second and Final Reading of Ordinance Adoption:
March 11, 2026**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Recuse	Absent
Biegacz							
Liang							
Patel							
Kapsaskis							
Lee							
Koutroubas							
Mayor Park							

Mark Park, Mayor

**This Ordinance was duly passed on second and final reading
by the Council of the Borough of Englewood Cliffs
at a meeting held March 11, 2026.**

**Beauty Nadim, RMC/CMR
Borough Clerk**