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## 2025 HOUSING ELEMENT AND FAIR SHARE PLAN

BOROUGH OF BERGENFIELD  
BERGEN COUNTY, NEW JERSEY

PREPARED FOR:

BOROUGH OF BERGENFIELD PLANNING BOARD  
BA# 4209.02

April 28, 2025

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The original document was appropriately signed and sealed on April 28, 2025 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

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## TABLE OF CONTENTS

Introduction	1
Section I: Housing Element	5
Section II: Fair Share Obligation	22
Section III: Fair Share Plan	24

## LIST OF TABLES

Table 1: Existing Land Use	5
Table 2: Dwelling Units (1980 to 2023)	6
Table 3: Housing Units by Tenure and Occupancy Status (1990 to 2023)	7
Table 4: Units in Structure (2000 to 2023)	7
Table 5: Number of Bedrooms in Housing Units (2000 to 2023)	8
Table 6: Year Structure Built	8
Table 7: Occupants Per Room (2000 to 2023)	9
Table 8: Equipment and Plumbing Facilities (2000 to 2023)	9
Table 9: Gross Rent of Renter-Occupied Housing Units (2000 to 2023)	10
Table 10: Value of Owner-Occupied Housing Units (1990 to 2023)	11
Table 11: Population Growth (1920 to 2023)	13
Table 12: Age Characteristics (2000 to 2023)	14
Table 13: Average Household Size (1970 to 2023)	14
Table 14: Household Income (1999 to 2023)	15
Table 15: Housing Cost as Percentage of Income (2010 to 2023)	16
Table 16: Employment Status, Population 16 and Over (1990 to 2012)	17
Table 17: Employed Residents Age 16 and Over, By Occupation (2000 to 2023)	17
Table 18: Employed Residents Age 16 and Over, By Industry (2000 to 2023)	17
Table 19: Non-Residential Space Authorized by Building Permits (2014-2023)	19
Table 20: Trend in Residential Development Analysis (2004 to 2023)	20

## INTRODUCTION

This 2025 Housing Element and Fair Share Plan (HE&FSP) of the Master Plan has been prepared for the Borough of Bergenfield, Bergen County, New Jersey. This plan is designed to outline the manner in which Bergenfield will address its continuing affordable housing obligations as these obligations have been established from various sources over time, most recently the Department of Community Affairs by means of an October 2024 report as authorized by the 2024 amendments to the Fair Housing Act amendments.

The 2024 Fair Housing Act amendments directed municipalities to review the status of their Third Round housing plan. More specifically, municipalities when preparing Fourth Round housing plans are directed as follows:

As part of its housing element and fair share plan, the municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing established by prior court approvals, approval by the council, and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its prior round obligations.

### Third Round Affordable Housing Obligations.

Bergenfield was an active participant throughout the third round housing cycle. In March of 2015, the Supreme Court issued a decision stating the former administrative process for determining municipal compliance with their constitutional obligation to create reasonable opportunities for the creation of affordable housing was not functioning. The Supreme Court returned the process of reviewing affordable housing plans back to the Superior Courts.

In accordance with this March 2015 decision, Bergenfield filed a declaratory judgment with the Superior Court. This filing allowed Bergenfield to maintain its immunity from builder's remedy lawsuits while its affordable housing plan was prepared and reviewed by the Court. Upon the filing of the declaratory judgment action, the Borough entered into negotiations with the Fair Share Housing Center with the able assistance of a judicially appointed Special Adjudicator. As an advocacy group seeking solutions to New Jersey affordable housing problems, Fair Share Housing Center was offered the opportunity to participate in all declaratory judgment actions.

Ultimately and after many months, Bergenfield entered into a Settlement Agreement with Fair Share Housing Center. This Settlement Agreement was presented to the Court for its approval. The Settlement Agreement finalized the various affordable housing obligations Bergenfield would need to satisfy. In addition, the Settlement Agreement dated 12/2/2019, detailed the mechanisms Bergenfield would rely on to satisfy its affordable housing obligations.

A copy of the signed Settlement Agreement is attached as Appendix A. Bergenfield has taken numerous steps and actions to affirmatively address the affordable housing obligations detailed in the Settlement Agreement upon which the HE&FSP was based. Pursuant to the Settlement Agreement, Bergenfield's affordable housing obligations through the end of the Third-Round affordable housing cycle were established as follows:

Rehabilitation Share (also known as Present Need)	129 units
Prior Round Obligation (1987-1999)	87 units
Third Round Obligation (1999-2025)	140 units.

Rehabilitation of deteriorated housing was to be accomplished using a three-prong approach that included the Bergen County Housing Authority, Bergenfield's use of affordable housing trust fund money and the rehabilitation of existing housing units in Brookside Garden, a late 1970's affordable housing complex.

The combined new construction obligation of the Prior Round and Third Round totaled 227 affordable housing units. Since Bergenfield is a mostly developed community, a Vacant Land Analysis was performed. This resulted in the establishment of a Realistic Development Potential ("RDP") of 18 affordable housing units and an Unmet Need obligation of 209 units.

Bergenfield's Third Round HE&FSP detailed how Bergenfield would satisfy the 18-unit RDP obligation through a combination of affordable units and bonus credits. When summed, affordable family rental units at the 51 East Main Street site and Landmark Equities site total 13 units. Both these completed developments produced bonus credits available to claim against the RDP total. Summed, these developments produced five (5) bonus credits. These two developments fully satisfy Bergenfield's 18-unit RDP obligation. Bergenfield accepted and agreed to household income stratification of 50% low-income with no more than 50% moderate-income households. Further, Bergenfield accepted the required bedroom distribution and rental distribution requirements as detailed in the substantive rules adopted for the Second Round Housing cycle.

The 209 Unmet Need obligation was partially addressed through existing special needs housing produced by experienced operators such as Spectrum for Living and ARC of Bergen County. Through these group homes, Bergenfield could claim credit for 20 units toward its Unmet Need obligation. Unlike RDP units, bonus credits are not available when generating Unmet Need units.

To further address the Unmet Need obligation, Bergenfield amended its zoning ordinance and established overlay affordable housing zones along stretches of Washington Avenue and on the Foster Village Shopping Center property.

Lastly, Bergenfield adopted a Mandatory Setaside Ordinance. This amendment to the zoning ordinance requires the creation of affordable housing every time a multifamily housing development of five (5) or more residential units is created. The number of affordable housing dwellings that must be created under this amendment to the zoning ordinance is dependent on whether the affordable units are rental or ownership and the overall size of the development.

Through the cumulative actions as detailed above, Bergenfield fully satisfied both the RDP and Unmet Need affordable housing obligations of the Third Round.

#### The Fourth Round Affordable Housing Obligation and the Borough's Response

The affordable housing obligation as determined by the Department of Community Affairs ("DCA") for the Fourth Round housing cycle which runs from 2025 to 2035 is summarized below:

For the purpose of continuing to enjoy immunity from exclusionary zoning litigation and in an effort to meet its obligation to provide a reasonable opportunity to create additional affordable housing options, Bergenfield has accepted the following affordable housing obligations as determined by the Department of Community Affairs:

Present Need Obligation:	137 units
Prospective Need Obligation:	<u>0 units</u>
Total Affordable Housing Obligation:	137 units.

This plan focuses on addressing the Present Need obligation which is sometimes called the Rehabilitation obligation. The HE&FSP set forth herein includes the preparation of a windshield survey assessment of existing residential properties. This survey was taken to ascertain if the DCA estimate that 137 dilapidated dwellings occupied by low-or moderate-income households exist in Bergenfield was valid or not.

Bergenfield's new construction obligation has been established by DCA at 0 zero units. Since there is no identified obligation, Bergenfield's HE&FSP has no response to this obligation.

This HE&FSP is organized into three sections. The first part of this plan, the Housing Element, contains background data on the Borough's population, employment status and housing characteristics. The second section describes the Borough's obligation for the provision of affordable housing. The Borough's plan for meeting its affordable housing obligation is contained in the plan's final section.

Ancillary aspects of the plan, are included as appendixes to the HE&FSP. As noted above, the process being followed is fluid and unsettled, and as the Courts respond to the many unresolved issues they

need to address, it is recognized that this plan may require future adjustment.

The 2024 amendments to the Fair Housing Act require each municipality to perform an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission.

Regardless of our firm's inability to find a report from, or recommendations of, the Multigenerational Family Housing Continuity Commission, we have examined Bergenfield's Zoning Ordinance. This review indicates the Borough's Zoning Ordinance neither specifically discourages nor encourages multigenerational family continuity. We expect that when a commission is empaneled and produces a report on multigenerational family living arrangements that Bergenfield will examine and if recommendations in the report are perceived as favorable to Bergenfield residents, then the Governing Body may act to implement one or more of the forthcoming recommendations.

If, at any time while this HE&FSP continues to be in effect, a binding legal determination by the Legislature, the Executive branch or the revises Bergenfield's cumulative affordable housing obligation to an obligation that is less than established herein by this HE&FSP, Bergenfield reserves unto itself the right to amend and revise this HE&FSP accordingly. In addition, if said determination is made after affordable housing units are constructed, Bergenfield reserves unto itself the right to apply any and all "excess" or "surplus" Third Round credits to upcoming and future affordable housing cycles.

## SECTION I: HOUSING ELEMENT

### A. COMMUNITY OVERVIEW

The Borough of Bergenfield occupies an area of 2.9 square miles in the central eastern portion of Bergen County. It is bordered to the north by Dumont, Tenafly to the east, Teaneck is to the south. New Milford is west of Bergenfield. In addition, Bergenfield has a very short border with Cresskill on the east and shares a very short portion of its southern boundary with Englewood.

Bergenfield is predominantly a residential community. This is best illustrated by reviewing the number of property parcels in Bergenfield and noting how many are developed residentially. As displayed in Table 1 below, in 2023 there were 7,263 parcels in the Borough. Of this total, 6,873 were classified as residential, with an additional 44 parcels developed with apartments. As indicated in Table 4, just under 70% of the Borough's housing stock is comprised of one and two-family dwellings. The second largest land use classification after residential was commercial, with 272 properties classified as such.

Table 1: Existing Land Use 2023  
Bergenfield, New Jersey

Use	# of Parcels	Value
Vacant Land	28	\$3,762,900
Residential	6,873	\$2,303,117,200
Commercial	272	\$256,687,800
Industrial	46	\$41,273,800
Apartment	44	\$119,913,900
TOTAL	7,263	\$2,724,755,600

Source: NJDCA Division of Local Government Services, 2023 figures and values

Bergenfield is a mostly residential community with a strong commercial core primarily running north and south along Washington Avenue. A small, yet important industrial core in close proximity to the railroad which mostly parallels Washington Avenue is located slightly east of the commercial corridor.

## A. INVENTORY OF MUNICIPAL HOUSING STOCK

This section of the Housing Element and Fair Share Plan provides an inventory of the Borough's housing stock, as required by the Municipal Land Use Law. The inventory details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low- and moderate-income households and the number of substandard housing units capable of being rehabilitated.

1. Number of Dwelling Units. As shown in the table below, the Borough's housing stock grew by 708 housing units during the 43 years between 1980 and 2023, increasing from 8,969 in 1980 to 9,677, the number of housing units in Bergenfield as estimated by the census bureau in 2023. The growth in Bergenfield's housing stock during this time period has varied. Most recently, beginning in 2010, the Borough has experienced a sharp increase in the number of units constructed.

Table 2: Dwelling Units (1980 to 2023)  
Borough of Bergenfield, New Jersey

Year	Total Dwelling Units	Numerical Change	Percent Change
1980	8,969	---	---
1990	9,035	66	0.73
2000	9,147	112	1.2
2010	9,200	53	0.57
2020	9,387	187	2.0
2023	9,677	290	3.0

Sources: 2003 Bergen County Data Book, U.S. Census – 1980-2010. 2023 ACS 5-Year est.

The following table provides additional detail regarding the tenure and occupancy of the Borough's housing stock. As shown below, 70.6% of the Borough's housing stock was estimated to be owner-occupied in 2023, an increase from 69.8% estimated in 2000. Also increasing during this time span was the overall number of owner-occupied units, increasing from 6,388 in 2000 to 6,656 in 2023. Both the number and percentage of owner-occupied dwelling units has steadily increased since 1990. The number of rental units has also been steadily increasing since the 2,545 rentals counted in 1990 to the estimated 2,774 in 2023. The percentage of vacant housing units has remained constant. 2.6% of the housing stock in the Borough was estimated to be vacant 2023. This is the same estimated percentage as reported by the census bureau 33 years earlier in 1990.

Table 3: Housing Units by Tenure and Occupancy Status (1990 to 2023)  
Borough of Bergenfield, New Jersey

Category	1990		2000		2023	
	No. Units	Percent	No. Units	Percent	No. Units	Percent
Owner-Occupied Units	6,254	69.2%	6,388	69.8%	6,656	70.6%
Renter-Occupied Units	2,545	28.1%	2,593	28.4%	2,774	29.4%
Vacant Units	236	2.6	166	1.8	247	2.6
<b>Total Units</b>	<b>9,035</b>	<b>100.0%</b>	<b>9,147</b>	<b>100.0%</b>	<b>9,677</b>	<b>100.0%</b>

Sources: U.S. Census and ACS 5-Year est. (2203)

2. Housing Characteristics. The following tables provide additional information on the characteristics of the Borough's housing stock, including data on the number of units in structures and the number of bedrooms. As shown below, the housing stock is predominantly characterized by single-family detached units, which represented approximately 70% of all Bergenfield dwelling units in 2023. This represents a substantial increase from previous reporting periods. The percentage of one-bedroom units dropped between 2010 and 2023 while the percentage of dwellings containing four bedrooms or five and more bedrooms has increased since 2010.

Table 4: Units in Structure (2000 to 2023)  
Borough of Bergenfield, New Jersey

Units in Structure	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
1-unit, detached	6,002	65.6%	6,314	65.3%	6,761	69.9%
1-unit, attached	245	2.6%	266	2.7%	245	2.5%
2 units	1,154	12.6%	1,081	11.1%	1,068	11.0%
3 or 4 units	330	3.6%	266	2.7%	298	3.1%
5 to 9 units	193	2.1%	223	2.3%	258	2.7%
10 to 19 units	497	5.4%	691	7.1%	394	4.1%
20 or more units	726	7.9%	809	8.3%	653	6.7%
Mobile home	0	0.0%	7	0.0%	0	0.0%
Boat, RV, van, etc.	4	0.0%	0	0.0%	0	0.0%
<b>Total</b>	<b>9,147</b>	<b>100.0%</b>	<b>9,657</b>	<b>100.0%</b>	<b>9,677</b>	<b>100.0%</b>

Sources: U.S. Census – 1990 & 2000, American Community Survey 5-Year Estimates, 2023.

Table 5: Number of Bedrooms in Housing Units (2000 to 2023)  
Borough of Bergenfield, New Jersey

Number of Bedrooms	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Zero	168	1.8%	35	0.4%	251	2.6%
One	1,525	16.7%	1,752	18.1%	1,379	14.3%
Two	2,021	22.0%	1,954	20.2%	1,661	17.2%
Three	3,683	40.2%	3,564	36.9%	3,784	39.1%
Four	1,462	16.0%	1,845	19.1%	1,871	19.3%
Five or More	288	3.1%	507	5.3%	731	7.6%
Total	9,147	100.0%	9,657	100.0%	9,677	100.0%

Sources: U.S. Census – 1990 & 2000, American Community Survey 5-Year Estimates, 2023.

3. Housing Age. The following table details the age of the Borough's housing stock. As shown, 84% of the Borough's housing units were constructed prior to 1980; nearly 11% of Bergenfield's housing stock was constructed after 1990, with about 0.4% constructed so far during this decade

Table 6: Year Structure Built  
Borough of Bergenfield, New Jersey

Year Built	Number of Units	Percent
2020 or later	40	0.4%
2010 to 2019	367	3.8%
2000 to 2009	387	4.0%
1990 to 1999	262	2.7%
1980 to 1989	501	5.2%
1970 to 1979	580	6.0%
1960 to 1969	1,167	12.1%
1950 to 1959	3,040	31.4%
1940 to 1949	1,637	16.9%
Built 1939 or earlier	1,696	17.5%
Total	9,677	100.0%

Sources: U.S. Census – American Community Survey 5-Year Estimates, 2023.

4. **Housing Conditions:** An inventory of the Borough's housing conditions is presented in the following tables. The first table identifies the extent of overcrowding in the Borough, defined as housing units with more than one occupant per room. The data indicates that the number of occupied housing units considered overcrowded is slight (5.1%) based on the 2023 housing estimate, but this number has increased notably from the 2.4% that was recorded in 2010. This may reflect higher housing costs confronting the community.

Table 7: Occupants Per Room (2000 to 2023)  
Borough of Bergenfield, New Jersey

Occupants Per Room	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
1.00 or less	9,024	94.8%	8,429	97.6%	8,939	94.9%
1.01 to 1.50	288	3.2%	161	1.9%	215	2.3%
1.51 or more	264	2.9%	44	0.5%	266	2.8%
<b>Total</b>	<b>9,576</b>	<b>100.0%</b>	<b>8,634</b>	<b>100.0%</b>	<b>9,420</b>	<b>100.0%</b>

Sources: U.S. Census – 1990 & 2000, American Community Survey 5-Year Estimates., 2023

The table below presents other key characteristics of housing conditions, including the presence of complete plumbing and kitchen facilities as well as the type of heating equipment used. As shown, the percentage of units lacking complete kitchen facilities decreased between 2010 and 2023, while the number of dwelling units lacking complete plumbing facilities basically stayed steady. Units lacking standard heating facilities, however, increased from 19 dwellings to 59 dwellings.

Table 8: Equipment and Plumbing Facilities (2000 to 2023)  
Borough of Bergenfield, New Jersey

Facilities	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
<b>Kitchen:</b>						
With Complete Facilities	8,959	99.7%	9,107	98.7%	9,371	99.4%
Lacking Complete Facilities	22	0.3%	122	1.3%	59	0.6%
<b>Plumbing:</b>						
With Complete Facilities	8,974	99.9%	9,116	98.8%	9,318	100.0%
Lacking Complete Facilities	7	0.1%	113	1.2%	112	1.2%
<b>Heating Equipment:</b>						
Standard Heating Facilities	8,919	99.3%	9,210	99.8%	9,371	99.4%
Other Means, No Fuel Used	62	0.7%	19	0.2%	59	0.6%

Sources: U.S. Census – 1990 & 2000, American Community Survey 5-Year Estimates, 2023.

5. Purchase and Rental Values. As shown in the following table, Bergenfield's rental housing stock has become dramatically more expensive with the passage of years. In 2000, the median monthly rent was \$855, increasing to \$1,744 by 2023. This may explain in part why the number of occupants per room has increased as it has.

Table 9: Gross Rent of Renter-Occupied Housing Units (2000 to 2023)  
Borough of Bergenfield, New Jersey

Gross Rent	2000		2010		2023		
	Number	Percent	Number	Percent	Gross Rent	Number	Percent
Less than \$200	78	3.0%	25	0.9%	Less than \$500	74	2.8%
\$200 to \$299	65	2.5%	102	3.9%	\$500-\$999	83	3.1%
\$300 to \$499	56	2.2%	114	4.3%	\$1,000-\$1499	561	21.0%
\$500 to \$749	395	15.3%	99	3.7%	\$1,500-\$1,999	1,266	47.4%
\$750 to \$999	1,234	47.7%	221	8.4%	\$2,000-\$2,499	411	15.4%
\$1,000 to \$1,499	603	23.3%	1,622	62.0%	\$2,500-\$2,999	94	3.5%
\$1,500 or More	93	3.6%	299	11.4%	\$3,000 and up	182	6.8%
No Cash Rent	64	2.5%	132	5.0%	No rent paid	103	3.8%
Total	2,588	100%	2,614	100.0%	Total	2,671	100.0%
Median Gross Rent	\$855			\$1,148	\$1,744		
Bergen County Median Gross Rent	\$872				\$1,863		

Sources: U.S. Census -- 1990 & 2000, American Community Survey 5-Year Estimates, 2023.  
Note: 1990 US Census did not include a "\$1,500 or More" gross rent category

Table 10 below shows that between 1990 and 2000 the median value of a dwelling in Bergenfield did not greatly appreciate. Over the course of the next 23 years there was appreciable growth as the median value of owner-occupied dwellings in Bergenfield increased fairly dramatically to \$469,200.

Table 10: Value of Owner-Occupied Housing Units (1990 to 2023)  
Borough of Bergenfield, New Jersey

Value Range	1990		2000		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$50,000	34	0.6%	46	0.8%	89	1.3%
\$50,000 to \$99,999	64	1.2%	38	0.7%	70	1.1%
\$100,000 to \$149,999	535	9.9%	633	11.2%	8	0.1%
\$150,000 to \$199,999	3,139	57.9%	3,106	55.1%	50	0.8%
\$200,000 to \$299,999	1,508	27.8%	1,555	27.6%	432	6.5%
\$300,000 to \$499,999	138	2.6%	232	4.1%	3,329	50.0%
\$500,000 to \$999,999	*	0.3%	19	0.3%	2,481	37.3%
\$1,000,000 or More	---	0.0%	13	0.2%	197	3.0%
<b>Total</b>	<b>5,418</b>	<b>100.0%</b>	<b>5,642</b>	<b>100.0%</b>	<b>6,656</b>	<b>100.0%</b>
<b>Median Value</b>	<b>\$184,000</b>		<b>\$184,400</b>		<b>\$469,200</b>	
<b>Bergen County Median Value</b>	<b>\$227,700</b>		<b>\$250,300</b>		<b>\$593,200</b>	

Sources: U.S. Census - 1990 & 2000, American Community Survey 5-Year Estimates, 2023.  
Note: 1990 US Census did not include classification above \$300,000\* Value Range

6. Number of Units Affordable to Low- and Moderate-Income Households. Bergenfield is in COAH Housing Region No. 1, which is comprised of Bergen, Passaic, Hudson and Sussex counties. Based on the most current regional income limits as calculated by the Affordable Housing Professionals of NJ, the median household income for a three-person household is \$108,371. A three-person moderate-income household, defined as 80% of the median income, would have an income not exceeding \$86,697.

Pursuant to applicable New Jersey affordable housing regulations, N.J.A.C. 5:80-26.6 Price restrictions for ownership units, a moderate-income household should not be spending more than 28% of eligible monthly income on taxes, mortgage, homeowner association and private mortgage insurance fees. An affordable sales price for a three-person moderate-income household earning 80% of the median income is estimated at approximately \$303,439. In 2023, the percentage of housing units in the Borough valued at less than \$300,000 was approximately 9.8% representing 649 dwellings.

Renters in affordable housing are allowed to pay up to 30% of their monthly income in typical situations. An affordable monthly rent for this household would not exceed \$2,167. According to the most recent U.S. Census data, approximately 74.3% of the Borough's rental units had a gross rent not exceeding \$2,000. This moderate-income household of 3 would have approximately 1,984 apartments in Bergenfield available to them.

7. Substandard Housing Capable of Being Rehabilitated. The number of units in a community that are in need of rehabilitation has been estimated by NJDCA in its October 2024 report. The number of dwelling units in need of rehabilitation and occupied by low- and moderate-income households is also called the Present Need obligation. The Department identifies the statewide need as 65,410 units of housing. Bergenfield's Present Need obligation has been estimated to be 137 units. The Borough's rehabilitation share is further explored in the Fair Share Plan section of this document.

## B. POPULATION ANALYSIS

The MLUL requires that a Housing Element and Fair Share Plan provide data on the municipality's population, including population size, age and income characteristics.

1. Population Size. As seen in the table on the following page, the Borough experienced its greatest prolonged population growth between 1940 and 1960, as Bergenfield's population increased by nearly 17,000 residents over this twenty-year span. According to US Census figures, during the decade of the 1970's, Bergenfield's population declined by 11.8%. Since 1990, the local population has continued to increase and by 2023, Bergenfield had an estimated population of 28,269 residents.

Table 11: Population Growth (1920 to 2023)  
Borough of Bergenfield, New Jersey

Year	Population	Population Change	Percent Change
1920	3,667	-	-
1930	8,816	5,149	140.4%
1940	10,275	1,459	16.5%
1950	17,647	7,372	71.7%
1960	27,203	9,556	54.1%
1970	29,000	1,797	6.6%
1980	25,568	-3,432	-11.8%
1990	24,458	-1,110	-4.3%
2000	26,247	1,789	7.3%
2010	26,764	517	1.9%
2023	28,269	1,505	5.3%

Sources: U.S. Census, 2023 estimates ACS 2023 DP-5

2. Age Characteristics. The Borough's age characteristics are outlined in the table on the following page. As shown, the Borough's population is growing older, consistent with national suburban trends. Bergenfield's median age has increased since 2000 from 37.6 years to 40.7 years in 2023. The number of children under 19 years has been decreasing since 2000 from 27.0% of the Borough's population to 23.5% in 2023.

Table 12: Population Age Characteristics (2000 to 2023)  
Bergenfield, New Jersey

Age	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Under 5 years	1,779	6.8	1,750	6.5	1,627	5.8%
5 to 19 years	5,291	20.2	5,330	20.0	5,006	17.7%
20 to 24 years	1,373	5.2	1,614	6.0	2,118	6.8%
25 to 34 years	3,519	13.4	1,859	12.3	3,496	12.4%
35 to 44 years	4,627	17.6	3,692	13.8	3,516	12.4%
45 to 54 years	3,745	14.3	4,207	15.7	3,477	12.3%
55 to 64 years	2,357	9.0	3,385	12.6	4,288	15.2%
65 to 84 years	3,169	12.1	2,954	11	4,222	15.0%
85 years and over	387	1.5	533	2.0	519	1.8%
<b>Total</b>	<b>26,247</b>		<b>26,764</b>		<b>28,269</b>	
<b>Median Age</b>	<b>37.6</b>		<b>39.0</b>		<b>40.7</b>	

Source: U.S. Census – 1990, 2000, 2010, ACS DPOS, 2023.  
\* may not equal 100% due to rounding

3. Average Household Size. The average household size for the Borough has varied as reflected in the table below. In 1970, the average household size in Bergenfield was 3.83 people. By 1990, average size had declined to 2.78 members. In 2023, the average size of a household in the Borough was estimated to be 2.99.

Table 13: Average Household Size (1970 to 2023)  
Bergenfield, New Jersey

Year	Total Population	Number of Households	Average Household Size
1970	29,000	10,247	3.83
1980	25,568	8,836	2.89
1990	24,458	8,799	2.78
2000	26,247	8,981	2.92
2010	26,247	8,852	3.0
2023	28,269	9,430	2.99

Sources: U.S. Census – 1990, 2000, 2016, ACS 2023.

4. Household Income. Detailed household income figures are shown in the table below. As shown, nearly a quarter of the Borough's households had an income of \$100,000 or more in 1999, by 2023 the percentage of households earning \$100,000 or more had increased to 56.6%. The Borough's median household income in 2023 was \$124,083. Throughout the years studied, Bergenfield's median household income was quite similar to the median household income for Bergen County as a whole.

Table 14: Household Income (1999 to 2023)  
Bergenfield, New Jersey

Income Category	1999		2009		2023	
	Number	Percent	Number	Percent	Number	Percent
Less than \$10,000	285	3.2%	302	3.3%	188	2.0%
\$10,000 to \$14,999	285	3.2%	321	3.5%	273	2.9%
\$15,000 to \$24,999	721	8.0%	729	7.9%	462	4.9%
\$25,000 to \$34,999	835	9.3%	504	5.5%	396	4.2%
\$35,000 to \$49,999	1,341	14.9%	889	9.6%	631	6.71%
\$50,000 to \$74,999	1,914	21.3%	1,513	16.4%	1,131	12.0%
\$75,000 to \$99,999	1,509	16.8%	1,294	22.3%	1,009	10.7%
\$100,000 to \$149,999	1,568	17.5%	2,054	22.3%	1,791	19.0%
\$150,000 to \$199,999 (plus in 1999)	519	5.8%	875	9.5%	1,471	15.6%
\$200,000 or more	---	0.0%	748	8.1%	2,074	22.0%
<b>Total</b>	<b>8,977</b>	<b>100.0%</b>	<b>9,229</b>	<b>100.0%</b>	<b>9,002</b>	<b>100.0%</b>
<b>Median Household Income</b>	<b>\$62,172</b>		<b>\$82,546</b>		<b>\$124,083</b>	
<b>Bergen County Median</b>	<b>\$64,912</b>		<b>\$81,708</b>		<b>\$123,715</b>	

Sources: U.S. Census - 1990 & 2000, American Community Survey 5-Year Estimates.  
Note: 1990 Census Survey did not include categories for "\$150,000 to \$199,999" or "\$200,000 or more"

5. Housing cost-burden. Households that pay more than 30% of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. Despite Bergenfield's affluence, the data from the 2010 census reveals that approximately 48% of owner-occupied households and nearly 45% of rental households had housing costs of 30% or more. By 2023, the data indicate a much-improved situation for owner-occupied households, as just 36.8% of this group were paying 30% or more of income to household costs. The situation renters in 2023 find themselves in much worse however, which is most likely a reflection of the very high rents landlords are

charging for apartments. In 2023, nearly 60%, 58.1% of renters were paying 30% or more of their income for housing.

Table 15: Housing Cost as Percentage of Income (2010 VS 2023)  
Bergenfield, New Jersey

Percentage of Income	2010				2023			
	Owner-occupied		Renter		Owner-occupied		Renter	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Less than 20 percent	1,912	28.9%	520	19.9%	1,721	37.6%	719	27.4%
20 to 29 percent	1,535	23.2%	758	29.0%	1,170	26.6%	382	14.6%
30 percent or more	3,175	48%	1,174	44.9%	1,687	36.8%	1,525	58.1%
Zero income/no cash rent	0	0	157	6.0	0	0.3	0	0
Occupied Units	6,622	100.00%	2,609	100.00%	6,014	100.00%	2,987	100.00%

Sources: U.S. Census – 2000, American Community Survey 5-Year Estimates.

### C. EMPLOYMENT ANALYSIS

The MLUL requires that the Housing Element include data on employment levels in the community. The following tables present information on the Borough’s employment characteristics.

1. Employment Status. The following table provides information on the employment status of Borough residents age 16 and over. Of those in the labor force in 2010, 3.69% were unemployed. This Bergenfield unemployment rate has trended slightly upward over the last thirteen years. More significantly, the number of Bergenfield residents who are employed has increased without interruption since 2000. The increase in employment numbers for Bergenfield residents is nearing 1,500 during the last 23 years.

Table 16: Employment Status, Population 16 and Over (2000 to 2023)  
Bergenfield, New Jersey

Employment Status	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
In labor force	13,731	67.0%	14,851	69.8%	15,589	67.4%
Civilian labor force	13,731	67.0%	14,851	69.8%	15,589	67.4%
Employed	13,241	64.6%	14,045	66.0%	14,701	63.6%
Unemployed	490	2.4%	797	3.7%	901	3.9%
% of civilian labor force		3.6		5.4		5.7
Armed Forces	0	0.0%	0	0.0%	0	0.0%
Not in labor force	6,770	33.0%	6,428	30.2%	7,535	32.6%
Total Population 16 and Over	20,501		21,279		23,115	

Sources: U.S. Census – 1990 & 2000, & 2023 American Community Survey 5-Year Estimates.

2. Employment Characteristics of Employed Residents. The following two tables detail information on the employment characteristics of employed Bergenfield residents. Table 17 details occupation characteristics, while Table 18 details industry characteristics.

Table 17: Employed Residents Age 16 and Over, By Occupation (2000 to 2023)  
Bergenfield, New Jersey

Occupation	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Management, Professional and related occupations	5,040	38.1%	5,696	40.5%	7,421	50.5%
Service Occupation	1,898	14.3%	2,119	15.1%	2,145	14.6%
Sales and Office Occupations	3,875	29.3%	3,505	24.9%	2,601	17.7%
Natural resources, construction & maintenance occupations	933	7.0%	1,292	9.2%	720	4.9%
Production, transportation and material moving occupations	1,495	11.3%	1,442	10.3%	1,808	12.3%
Total	13,241	100.0%	14,054	100.0%	14,696	100%

Sources: U.S. Census – 1990 & 2000, American Community Survey 5-Year Estimates.

Table 18: Employed Residents Aged 16 and Over, By Industry (2000 to 2023)  
Bergenfield, New Jersey

Industry	2000		2010		2023	
	Number	Percent	Number	Percent	Number	Percent
Agriculture, forestry, fishing, hunting and mining	11	0.1%	0	0.0%	29	0.2%
Construction	595	4.5%	716	5.1%	661	4.5%
Manufacturing	1,275	9.6%	1,170	8.3%	941	6.4%
Wholesale trade	737	5.6%	443	3.2%	294	2.0%
Retail trade	1,638	12.4%	1,202	8.6%	1,367	9.3%
Transportation and warehousing, and utilities	860	6.5%	817	5.8%	1,161	7.9%
Information	536	4.0%	527	3.7%	191	1.3%
Finance, insurance, real estate and rental and leasing	1,045	7.9%	1,028	7.3%	926	6.3%
Professional, scientific, management, administrative and waste management services	1,287	9.7%	1,551	11.0%	2,072	14.1%
Educational, health and social services	3,359	25.4%	4,570	32.5%	4,717	32.1%
Arts, entertainment, recreation, accommodation and food services	829	6.3%	737	5.2%	867	5.9%
Other services	657	5.0%	684	4.9%	1,014	6.9%
Public administration	412	3.1%	609	4.3%	485	3.3%
<b>Total</b>	<b>13,241</b>	<b>100.0%</b>	<b>14,054</b>	<b>100.0%</b>	<b>14,696</b>	<b>100.0%</b>

Sources: U.S. Census – 1990 & 2000, 2023 American Community Survey 5-Year Estimates.

#### D. HOUSING AND EMPLOYMENT PROJECTIONS

The following section identifies the extent to which recent development has occurred in the community, to assist in the determination of future residential and employment projections.

1. Probable Future Employment and Regional or Community Factors Impacting Upon Future Municipal Employment. Employment has generally trended upward over the past ten years in the Borough, between 13,241 jobs recorded in 2000 to a high of 14,701 which was recorded in 2023. This trend of slow growth is anticipated to continue into the future, based on the mature development patterns experienced in the County and the Borough's demographic profile as detailed in earlier tables.

- a. Non-Residential Square Footage Constructed During the Last Ten Years. The table below provides data concerning the amount of non-residential square footage authorized by building permits over the past decade. During this period, building permits were issued for just 118,535 square feet of non-residential space. Overall, the Borough issued permits for approximately 11,800 square feet of non-residential space per year, on average, during the past decade.

Table 19: Non-Residential Space Authorized by Building Permits (sq. ft.) (2014 to 2023)  
Bergenfield, New Jersey

Year Issued	Office	Retail	A-2	A-3	Educa- tional	Indus- trial	Storage	Total
2014	0	0	0	0	12,900	0	0	12,900
2015	0	0	0	303	0	0	0	303
2016	0	0	3,912	0	0	0	306	4,218
2017	0	0	0	0	0	0	0	0
2018	0	0	0	0	0	0	0	0
2019	0	0	2,083	0	0	0	0	2,083
2020	0	0	0	18,620	0	0	0	18,620
2021	31,230	0	0	34,207	0	0	0	65,437
2022	1,600	0	0	0	0	0	0	1,600
2023	3,024	0	0	0	0	10,350	0	13,374
Total	35,854	0	5,995	53,130	12,900	10,350	306	118,535

Source: New Jersey Department of Community Affairs (DCA) Construction Reporter.

- b. Probable Non-Residential Development of Lands. The Borough experienced an average of approximately 11,800 square feet of new non-residential space per year over the past decade. The Borough anticipates a slower pace of non-residential growth to occur over the next ten-year period as there are few parcels to develop and except for the year 2021, there has not been much non-residential development occurring in the Borough. Table 20 indicates in 6 of the years for which data is provided, there was 5,000 square feet of non-residential space or less added to the Borough's total amount of non-residential development.
2. Projection of the Municipality's Housing Stock. With very limited acreage remaining in the municipality that may be developed for residential use, it is anticipated that the Borough's residential growth will remain modest, as reflected in the recent annual data shown below. The only anticipated developments of consequence are the proposed redevelopment of the one or two sites along Washington Avenue and the potential redevelopment of the Foster Village shopping center. The data in Table 21 below clearly reveals slow residential growth trends for the studied years.

Table 20: Trend in Residential Development  
 Analysis of Certificates of Occupancy and Demolition Permits, 2004-2023  
 Bergenfield, New Jersey

Year	COs Issued	Demo Permits Issued	Net Growth
2004	0	13	-13
2005	20	18	2
2006	13	10	3
2007	8	15	-7
2008	101	7	94
2009	5	32	-27
2010	5	3	2
2011	4	2	2
2012	33	3	30
2013	2	6	-4
2014	4	9	-5
2015	12	13	-1
2016	19	5	14
2017	26	1	25
2018	20	6	14
2019	2	6	-4
2020	68	0	68
2021	2	0	2
2022	15	0	15
2023	30	0	30
15 YR Total	247	86	161
15 YR Average	16.4	5.7	10.7

SECTION II: FAIR SHARE OBLIGATION

A. SUMMARY OF FAIR SHARE OBLIGATION FOR THE 4<sup>TH</sup> ROUND AFFORDABLE HOUSING CYCLE

As a result of the 2024 amendments to the Fair Housing Act, the Department of Community Affairs was empowered and directed to prepare a report to the Governor, Legislature and municipalities detailing the projected 10-year affordable housing obligation of each individual municipality comprising the various housing regions in the State. This ten-year housing cycle begins on July 1, 2025 and continues until June 30, 2035.

This report was released in October 2024. With regard to the Borough of Bergenfield, the report established the Borough's 10-year affordable housing obligation as:

Present Need	137 Units.
Prospective Need	0 Unit.

With regard to Bergenfield's Present Need obligation, the Department of Community Affairs has determined the Borough's obligation for the current ten-year period beginning July 1, 2025 is 137 dwelling units. A preliminary comment concerning this number is that this number is significantly higher than what Bergenfield anticipated and is a much greater obligation than their experience would call for. More will be said about the Borough's approach to this obligation.

Turning attention to Prospective Need, the October report indicates the Borough of Bergenfield has a Fourth Round Prospective Need obligation of 0 affordable housing units. Since there is no Prospective Need obligation, the Borough is not required to address this component of the affordable housing obligation.

SECTION III: FAIR SHARE PLAN

## A. PLAN SUMMARY

The HE&FSP identifies the manner in which the Borough's fair share affordable housing obligations – inclusive of a 137-unit rehabilitation obligation and a 0-unit Fourth Round Prospective Need obligation will be addressed.

1. Rehabilitation Share. DCA has assigned Bergenfield a Present Need obligation of 137 dwelling units. This number was far in excess of Borough expectations. Because of the disconnect between Borough expectations and the number assigned by DCA, Bergenfield invested the time and effort to perform a windshield survey conducted through the entire Borough. The results of the windshield survey are attached as Appendix B. A total of 43 properties were flagged by the Construction Official, however 7 were for paint reasons which by itself does not make a unit deteriorated. Removal of the 7 dwellings flagged for paint reasons and there are 36 dwellings in need of rehabilitation.

The Borough intends to satisfy its 36-dwelling unit rehabilitation (Present Need) obligation by maintaining the processes that generated the rehabilitation credits during the successful Third Round plan. Namely, credits received from rehabilitation work completed at Brookside Gardens and through participation in the Bergen County Home Improvement Program as well as Bergenfield's Housing Rehabilitation program funded primarily through Bergenfield's affordable housing trust fund.

2. New Construction Obligation. Bergenfield's prior round obligation has been determined by DCA to be 0 dwelling units. As such, there is no current obligation upon Bergenfield to address a new construction obligation, sometimes called Prospective Need.

Despite Bergenfield having no obligation to address Prospective Need in the Fourth Round, Bergenfield fully intends to maintain and continue all prior actions taken to address the Unmet Need obligation from the Third Round housing cycle.

The Borough proposes to continue to address the Third Round Unmet Need obligation through an overlay zone that is limited to a portion of the B-1 zone and a portion of the B-2 zone located along Washington Avenue. Additionally, an overlay zone formerly established for and over the Foster Village property will continue in full force and effect, at least through the end of the Fourth Round housing cycle or Bergenfield's Third Round Unmet Need obligation is fully discharged.

### C. PLAN COMPONENTS

This section of the plan details the projects, mechanisms and funding sources which will be used to meet the Borough's affordable housing obligations, as discussed above. The Plan Components Map included at the end of this plan illustrates the location of all existing and proposed developments identified herein.

1. Rehabilitation Share AKA Present Need. The Borough has a rehabilitation share of 36 units, based on a recent Windshield Survey. Bergenfield plans to continue to participate in the Bergen County Home Improvement Program to address this obligation while utilizing funds from its affordable housing trust fund, adopted as part of Bergenfield's Third Round implantation process, to ensure rental units become eligible for subsidized rehabilitation. COAH's regulations require municipalities to set aside sufficient funds to address one-third of their rehabilitation obligation within one year of substantive certification of their plan. In addition, municipalities are required to set aside sufficient funds to address one-sixth of their rehabilitation obligation each subsequent year of the substantive certification period. A minimum of \$10,000 per unit is required. Bergenfield will comply with these financial requirements to insure the 36 dwelling unit obligation is fully satisfied.

Bergenfield continues to assert the on-going rehabilitation of key structural elements of Brookside Gardens, a HUD sponsored and funded affordable housing development, generates COAH-credit worthy rehabilitation credits and as such, Bergenfield will continue to seek rehabilitation credits to the full extent allowed the Dispute Resolution Program.

As such, the amount of money Bergenfield must set aside will be determined upon determination of the number of rehabilitation credits available to Bergenfield from Brookside Gardens. The Borough commits to reserve \$10,000 per each unit of rehabilitation obligation not resolved by rehabilitation efforts at Brookside Gardens. Bergenfield is of the opinion that the number of rehabilitated Brookside Gardens dwellings will fully satisfy Bergenfield's rehabilitation obligation.

Bergenfield will first look to its affordable housing trust fund to supply these necessary funds. Bergenfield has adopted a development fee ordinance as part of its Third Round affordable housing activities. This adopted ordinance is attached as Appendix C.

2. Unmet Need Obligation. This plan addresses Unmet Need utilizing two different approaches. First, Bergenfield will seek approval from the Affordable Housing Dispute Resolution Program of twenty (20) credits for twenty (20) bedrooms of supportive housing.

Table 21:  
Group Homes  
Borough of Bergenfield, New Jersey

Development Names	Unit Type	# of Affordable Housing Units
Spectrum for Living	Supportive Housing	3
ARC of Bergen/Passaic Cty.	Supportive Housing	5
Community Center Mental Health	Supportive Housing	6
ARC of Bergen/Passaic Cty.	Supportive Housing	6
<b>TOTAL CREDITS</b>		<b>20</b>

In addition to seeking Unmet Need credits generated by group homes, Bergenfield has previously adopted zoning ordinance amendments with the anticipation that these ordinances will create a realistic opportunity to foster the construction of new affordable housing.

The first zoning amendments established an overlay zone on Block 351 Lot 8, also known as the Foster Village Shopping Center. This overlay zone will permit the construction of inclusionary housing at this site. Proposed densities and affordable housing setasides are depending on whether units are offered for sale or for rent. All affordable housing constructed on this property will be provided in accordance with the Uniform Housing Affordability Controls except that this overlay zone will require at least 30% of all affordable units shall contain no less than three (3) bedrooms. The Foster Village Overlay Zone is attached as Appendix D

The second previously adopted amendment created an overlay zone on selected portions of the B-1 zone and B-2 zone along Washington Avenue. Density and the percentage of the mandatory affordable housing setaside are dependent on whether dwellings are to be offered for sale or for rent. This ordinance is attached as Appendix E.

An additional zoning ordinance amendment is not zone specific. This fourth amendment to Chapter 186 requires all future multi-family residential or mixed-use developments, regardless of which zone the property is in, containing a residential component of five (5) or more dwellings to include an affordable housing setaside of fifteen (15) percent if dwellings are rental and a twenty (20) percent affordable housing setaside if dwellings are offered for sale. The Mandatory Setaside Ordinance is attached as Appendix F.



## APPENDICES

- A-A: Bergenfield's Third Round signed Settlement Agreement
- A-B: Bergenfield Windshield Survey
- A-C: Development Fee Ordinance
- A-D: Foster Village Overlay Ordinance
- A-E: B-1 & B-2 Overlay Ordinance
- A-F: Mandatory Setaside Ordinance



## APPENDIX A



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December 2, 2019

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800 Main Street – Ste. 101  
Hackensack, NJ 07601

**Re: In the Matter of the Application of the Borough of Bergenfield,  
County of Bergen, Docket No. BER-L-6715-15**

Dear Mr. Schettino:

This letter memorializes the terms of an agreement reached between the Borough of Bergenfield (the Borough or "Bergenfield"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

#### **Background**

Bergenfield filed the above-captioned matter on July 31, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

#### **Settlement terms**

The Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and Bergenfield hereby agree that Bergenfield's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report <sup>1</sup> )	129
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	87
Third Round (1999-2025) Prospective Need (per Mercer County decision, as adjusted through this Agreement)	140

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. The Borough's efforts to meet its present need include participation in the Bergen County Housing Rehabilitation Program and through a supplemental municipally operated rehabilitation program that shall be available to rental units. Said municipal program shall meet the requirements in N.J.A.C. 5:93-5.2. The Borough represents that it has also undertaken substantial rehabilitation of its existing age-restricted development at Brookside Gardens. During the compliance phase of this litigation the Borough shall demonstrate that these rehabilitations comply with the requirements of N.J.A.C. 5:93-5.2 in order for them to be counted towards addressing the rehabilitation obligation. The Borough may also conduct a structural conditions survey in accordance with the applicable rules and processes of the Council on Affordable Housing. This survey shall be submitted for review to the Special Master and FSHC at least 60 days prior to the compliance hearing in this matter. In the event the survey demonstrates that there is not a Rehabilitation obligation, and if that conclusion is accepted by the Special Master and FSHC, the Borough shall have no obligation to administer a rehabilitation program. In the event that there is a rehabilitation obligation demonstrated by the survey or that the municipality does not conduct a survey and therefore accepts the 129-unit obligation,
6. As noted above, the Borough has a Prior Round prospective need of 87 units and a Third Round obligation of 140 units which combined result in a total obligation of 227 units. The Borough, as calculated in Exh. A, will meet its new construction obligation in part through a vacant land adjustment. The Borough has a realistic development potential (RDP) of 18 units. That RDP will be satisfied as follows:

Name of Development	Type of AH units	# of AH units
Landmark Equities LLC (Block 84, Lot 14; Block 87, Lots 1 & 6)	Family rental	9
51 E. Main Street (Block 154 Lot 2)	Family rental	4
Landmark Equities LLC	Rental Bonus Credit	5
	Total	18

7. The Borough will provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:

<sup>1</sup> David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

- a. Landmark Equities LLC – the Borough entered into a settlement agreement on April 15, 2013 with Landmark to permit a 62-unit development with a required on-site 15% set-aside of 9 affordable housing units.
  - b. 51 E. Main Street – the property owner of this site has a pending development application before the Zoning Board of Adjustment for a 26-unit development including a 15% set-aside of 4 affordable housing units. Prior to the fairness hearing in this matter the Borough shall provide FSHC and the special master with the relevant resolution of approval for this property.
8. The RDP of 18, subtracted from the combined Prior Round and Third Round obligation of 227 units, results in an unmet need of 208 units, which shall be addressed through the following mechanisms, as more fully described in Exh. B to this Agreement:

Name of Site/ Development	Type of AH units	# of AH units
Spectrum for Living	Supportive Housing	3 bedrooms
ARC of Bergen/Passaic Counties (Christie)	Supportive Housing	5 bedrooms
Community Center Mental Health	Supportive Housing	6 bedrooms
ARC of Bergen/ Passaic Counties (Bergen)	Supportive Housing	6 bedrooms
	Total	20

The Borough also agrees to adopt the following overlay zoning:

- a) B1 and B2 Districts – the Borough agrees to adopt overlay zoning for properties in these districts between Clinton Avenue and Municipal Border permitting residential up to 15 du/a and requiring a 20% set-aside for for-sale housing and 20 du/acre and requiring a 15% set-aside for rental housing.
- b) Foster Village Shopping Center (Block 351, Lot 18) – the Borough agrees to adopt overlaying zoning for this property in the B-1 zone and consisting of approximately 6.6 acres to permit mixed-use including residential density up to 35 du/acre and requiring a 20% set-aside for for-sale housing or 40 du/a and a 15% set-aside for rental housing. The Foster Village overlay zoning shall require that affordable housing be provided in accordance with the Uniform Housing Affordability Controls (UHAC) except that it shall require that at least 30% of affordable housing units must be three (3) bedroom units.
- c) The Borough shall adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily residential developments of five (5) units or more. The set aside for rental developments shall be fifteen percent (15%) and the set aside for for-sale developments shall be twenty percent (20%). The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the Borough.

9. The Borough agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

Name of Development	# of VLI Units
Landmark Equities LLC (Block 84, Lot 14; Block 87, Lots 1 & 6)	1
51 E. Main Street (Block 154 Lot 2)	1
Total	2

10. The Borough shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:

- a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
- b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
- c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
- d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
- e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

11. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, and Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

12. With the exception of the Landmark development and the Foster Village overlay zoning as described above all units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such

zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

15. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.
16. The Borough shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Borough, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
17. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

projects shall be required to be at 30 percent of median income, and all other applicable law. The Borough as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- a. Regional income limits shall be established for the region that the Borough is located within (i.e. Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
  - b. The income limits attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2019, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
  - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
13. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
14. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Borough shall introduce and adopt an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the

18. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
- a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
  - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
19. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
20. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in in re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
21. The Borough agrees to pay FSHC's attorneys fees and costs in the amount of \$7,500 within ten (10) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
22. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and

until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.

23. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
24. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
25. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
26. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
27. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
28. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
29. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
30. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
31. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
32. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

33. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
34. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

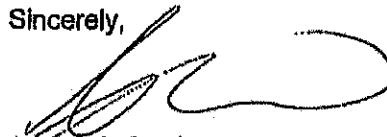
**TO FSHC:** Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444  
Telecopier: (856) 663-8182  
E-mail: adamgordon@fairsharehousing.org

**TO THE BOROUGH:** John L. Schettino, Esq.  
800 Main Street – Ste. 101  
Hackensack, NJ 07601  
Phone: (201) 575-4963  
Telecopier: (201) 498-9769  
Email: mail@jlslegal.com

**WITH A COPY TO THE  
MUNICIPAL CLERK:** Marie Quinones  
198 North Washington Avenue  
Bergenfield, NJ 07621  
Phone: (201) 387-4855 Ext 6  
Telecopier: (201) 387-6737  
Email: boroclerk@bergenfield.com

Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.  
Counsel for Intervenor/Interested Party  
Fair Share Housing Center

On behalf of the Borough of Bergenfield, with the authorization  
of the governing body:



Norm Almb

Dated: 12/3/2019

## APPENDIX B

Property Address	Siding	Roof	Foundation	Vacant	Paint
252 N Prospect Ave	x	x	x		
178 S Prospect Ave	x				
25 Quincy Ln	x				
27 Westside Ave	x				
56 Westside Ave		x			
113 Lake St	x				
106 Lake St		x			
36 Lake St				x	
54 Somers Ave	x				
125 Levitt Ave	x				
145 W Main St				x	
77 Delford Ave					x
14 Arlington Ave	x				
25 Harrington St		x			
42 N Vivyen St					x
58 Riveredge Rd	x				
5 Riveredge Rd				x	
89 N Stoughton St	x				
26 Van Valkenburgh Ave	x				
96 Baker Ave		x			
75 Westview Dr				x	
59 John Pl		x			
35 Beulah Pl	x				
123 N Vivyen St		x			
9 Coyne Ct				x	
130 Central Ave	x				
133 Central Ave					x
74 N Demarest Ave		x			
22-24 N Front St		x			
12-14 N Front St					x
44 Sunset Pl		x			
18 Shelly Ct				x	
27 Merritt Ave				x	
271 Merritt Ave					x
307 Phelps Ave	x				x
268 Phelps Ave	x	x			x
76 Beechwood St				x	
62 E Broad St				x	
106 Pleasant Ave					x
104 Porter Ave					x
11 Fourth St					
184 Hillside Ave		x			
140 Pleasant Ave		x			
Foster St (possible redevelopment)					
North St (possible redevelopment)					

McDermott PI (possible redevelopment)

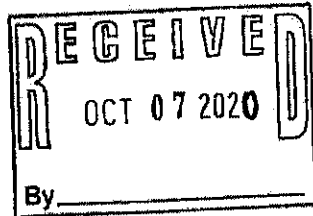


## APPENDIX C

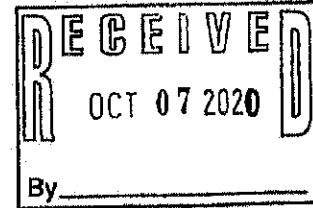
**BOROUGH OF BERGENFIELD  
PUBLIC NOTICE**

The following Ordinance which was introduced at a meeting of the Mayor and Council of the Borough of Bergenfield on Tuesday, August 18, 2020 was adopted at a Work Session meeting of the Mayor and Council on Tuesday, October 6, 2020 as amended:

**ORDINANCE 20-2568 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, LAND USE, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD"**



Marie Quinones  
Borough Clerk  
October 12, 2020



ORDINANCE NO. 20-2568  
BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, LAND USE, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD"

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BE IT ORDAINED by the Borough Council of the Borough of Bergenfield, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Land Development Ordinance of the Borough of Bergenfield, Chapter 186 entitled "Land Development Ordinance of the Borough of Bergenfield".

Section 1

**ARTICLE VI: Development Fees for Affordable Housing** is hereby established and incorporated into the Land Development Ordinance.

Section 186-63.1

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

- D. This article shall not be effective until approved by the Court. Bergenfield shall not spend development fees until the Court has approved a plan for spending such fees.

**Section 186-63.2 Definitions.**

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

**DEVELOPMENT FEE-** Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

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

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

**Section 186-63.3 Residential development fees.**

**A. Imposed fees.**

- (1) Within the zoning districts allowing residential development, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1½% of the equalized assessed value for residential development, provided that no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning of 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.
- (3) Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1½% of the equalized value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units. Provided that the zoning on the site has not changes during the two-year period preceding the filing of such a variance application.

**B. Eligible exactions, ineligible exactions and exemptions for residential development.**

- (1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collect 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.
- (4) Development fees shall not be imposed and collected on single-family and two-family detached residential structures.

**Section 186-63.4 Nonresidential development fees.**

**A. Imposed fees.**

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2½% of the equalized assessed value of land and improvements for all new nonresidential construction on an improved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2½% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2½% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time of final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

**B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.**

- (1) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2½% unless otherwise exempted below.
- (2) The fee of 2½% shall not apply to an increase in equalized assessed value resulting from alterations, changes in use within existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, State of New Jersey Non-Residential Development Certification/Exemption Form. Any exemption claimed by a developer shall be substantiated by that developer.

- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Bergenfield as a lien against the real property of the owner.
- (6) Developers of municipal buildings and houses of worship shall be exempt from paying a development fee.

**Section 186-63.5 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 nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, State of New Jersey Non-Residential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee, and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of Bergenfield 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 of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fees.
  - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Bergenfield. Appeals from a determination of the Board of Taxation may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### **Section 186-63.6 Affordable Housing Trust Fund.**

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fee collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and at all times be identifiable by source and amount:
  - (1) Payments in lieu of on-site construction of affordable units;
  - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with the Borough of Bergenfield's affordable housing program. In the event of a failure by the Borough of Bergenfield to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgement of compliance or a revocation of the judgement of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp of Monroe, 442 N.J. Super .565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditures of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided

that all such funds shall, to the extent practical, be utilized for affordable housing programs within the Borough of Bergenfield, or, if not practical, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- C. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court.

#### Section 186-63.8 Use of Funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Bergenfield's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Borough of Bergenfield for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low-and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordable assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
  - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.

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

**Section 186-63.9 Monitoring.**

The Borough of Bergenfield shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provide to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amount of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable housing units on site (if permitted by Ordinance or by agreement with Bergenfield), funds from the sale of units with extinguishing controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Bergenfield's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

**Section 186-63.10 Ongoing collection of fees.**

The ability for the Borough of Bergenfield to impose, collect and expend development fees shall expire with its repose period covered by its Judgement of Compliance unless Bergenfield has filed an adopted Housing Element and Fair Share Plan with the Court, or with a designated state administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a state administrative agency authorized to approved and administer municipal affordable housing compliance, and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan. If the Borough of Bergenfield fails to renew its ability to impose and collect development fees prior to the expiration of its Judgement 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 (N.J.S.A. 52:27D0320). The Borough of Bergenfield shall not impose a residential development on a development that receives preliminary or final site plan approval after the expiration of its Judgement of Compliance, nor shall Bergenfield retroactively impose a development fee on such a development. The Borough of Bergenfield shall not expend development fees after the expiration of its Judgement of Compliance.

**Section 2**

All Ordinances of the Borough of Bergenfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 3**

If any 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.

**Section 4**

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

  
Marie Quinones, Borough Clerk

  
Arvin Amatorio, Mayor

## APPENDIX D

**MAYOR**  
Norman Schmelz

**BOROUGH CLERK**  
T: 201-387-4055 ext. 6  
F: 201-387-6737

**Borough Clerk**  
Marie Quinones, MPA, RMC, QPA



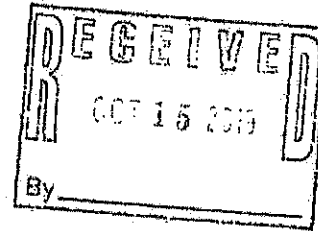
**BOROUGH OF BERGENFIELD**  
198 North Washington Avenue | Bergenfield, NJ 07621  
201.387.4055 | www.bergenfield.com

**COUNCIL**  
Ora Kornbluth  
*Council President*

Arvin Amatorio  
Buddy Deauna  
Thomas A. Lodato  
Rafael Marte  
Hernando Rivera

October 9, 2019

Bergen County Planning Board  
One Bergen County Plaza #4  
Hackensack, N.J. 07601



**Re: Ordinances Amending Chapter 186: Land Development  
Borough of Bergenfield**

Dear Sir/Madam:

Please be advised, the Bergenfield Mayor and Council adopted the following ordinances at their Work Session Meeting on Thursday, October 3, 2019:


**ORDINANCE 19-2554 - AN ORDINANCE AMENDING "SCHEDULE B" OF THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "LAND DEVELOPMENT"**

**ORDINANCE 19-2556 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD, NEW JERSEY"**

**ORDINANCE 19-2557 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "ZONING"**

Enclosed, please find copies of the above referenced ordinances for your records. Should have any questions or need further information, please do not hesitate contact me.

Sincerely,

  
Marie Quinones  
Borough Clerk

**AFFORDABLE HOUSING UNMET NEED OVERLAY ZONE**

ORDINANCE NO. 19-2557

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "ZONING"

---

BE IT ORDAINED by the Borough Council of the Borough of Bergenfield, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Borough Bergenfield, Chapter 186 entitled "Land Development Ordinance of the Borough of Bergenfield, New Jersey".

Section 1

- A. The list of zones provided in Article VI Zoning Regulations and Establishment of Zones, Section 186-36, Enumeration of Zones established is hereby amended to include:
  - AHO Affordable Housing Unmet Need Overlay Zone.
  
- B. §186-38 Zoning Map is herein amended and supplemented to depict the Affordable Housing Unmet Need Overlay Zone on the following property:
  - Block 351 Lot 18
  
- C. §186-49 Off street parking and loading areas is hereby amended to delete existing paragraph N and replace this paragraph with the following:
  - N. All residential parking shall comply with the New Jersey Residential Site Improvement Standards. Pursuant to N.J.A.C.5:21-4.14(e), when housing is included in mix-use development, a shared parking approach to the provision of parking shall be permitted. Furthermore, if applicants can demonstrate there is sufficient overnight on-street parking in proximity to their site, applicants can apply those available spaces to their development on a non-exclusive basis.

Section 2

The following Article is hereby included in the Land Development Ordinance:

ARTICLE VIIA  
AHO Affordable Housing Unmet Need Overlay Zone

§186-63.1 Objectives.

- A. Objectives. The provisions of this section are intended to encourage the planning and redevelopment of the above noted property into a vibrant mixed-use development, promote the health, safety, and general welfare of the public and the Borough of Bergenfield and encourage the construction of Inclusionary housing consistent with smart growth design principles.

- B. Permitted uses for Block 351 Lot 18 shall continue to be defined and limited by Schedule A of the Land Development Ordinance of the Borough of Bergenfield. In addition, first floor residential occupancy as part of an inclusionary development is permitted in this overlay zone in all buildings setback 200 feet or more from South Washington Avenue and 100 feet or more from Liberty Road.

§186-63.2 Design requirements.

As a minimum, all mixed-use developments shall comply with the following design requirements and standards.

- A. Site Area. All developments constructed pursuant to this section shall be on a site of no less than five (5) acres and shall have a width of at least 500 feet fronting on a public street. Lot area shall be computed to include all land area within the site.
- B. The intent in adopted the Affordable Housing Unmet Need Overlay Zone is to maximize the site's development opportunities to locate inclusionary housing in new buildings and above both the first floor of existing buildings.
- C. Ground floor occupancy of any building located within 200 feet of the public right of way of South Washington Avenue and within 100 feet of Liberty Road shall not be residential, but be pursuant to, and consistent with, the B-1 zone list of principal permitted uses. Ground floor residential occupancy of any building setback 200 or more feet from South Washington and 100 feet or more from Liberty Road is permitted in the AHO zone as part of an inclusionary development.
- D. Setback from the eastern lot line of Block 351 Lot 1 shall be forty (40) feet for any building greater in height than 3 stories.
- E. Maximum building height of any building within 200 feet of South Washington Avenue or 100 feet of Liberty Road shall be limited pursuant to, and consistent with, Schedule B of the Land Development Ordinance of the Borough of Bergenfield. Any building setback 200 feet or more from South Washington Avenue and 100 feet or more from Liberty Road is permitted a maximum height of 4 stories and 45 feet.
- F. Affordable housing as defined in NJAC 5:80-26.2 shall be supplied in accordance with the price stratification and bedroom distribution as required by NJAC 5:93.

§ 186-63.3 Yards.

Vertical extension of existing buildings with non-conforming setbacks solely designed for upper floor occupancy as an inclusionary development is permitted provided that the upper floor(s) extension is no

closer to a property line than the existing non-conforming building, except that the setback requirement shall be forty (40) feet along the eastern property line for all buildings greater than 3 stories in height.

§186-63.4 Miscellaneous Provisions.

- A. Density as defined in NJSA:40-55D-4 shall not exceed 35 dwelling units per acre if units are to be offered as for-sale dwellings. Affordable housing setaside of ownership units shall be a minimum of 20%. Maximum permitted density shall not exceed 40 dwelling units per acre if the dwellings are to be offered for rent. Affordable housing setaside of rental units shall be a minimum of 15%.
- C. Affordable housing units shall be designed, constructed, marketed and maintained in strict compliance with Bergenfield's Affordable Housing Ordinance, applicable regulations adopted by the State of New Jersey or Court order.
- D. Occupancy of affordable dwellings shall be limited to income qualified households, priced and deed restricted in compliance with all applicable regulations promulgated by the State of New Jersey or in accordance with any requirements established by Court order.
- E. Maximum building height shall not exceed four (4) stories or 45 feet.

Section 3

All Ordinances of the Borough of Bergenfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4

If any 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.

Section 5


This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

**Introduced: September 3, 2019**

**Adopted: October 3, 2019**

ATTEST:

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

  
Marie Quinones, Borough Clerk

By:   
Norman Schmelz, Mayor

## APPENDIX E

**MAYOR**  
Norman Schmelz

**BOROUGH CLERK**  
T: 201-387-4055 ext. 6  
F: 201-387-6737

**Borough Clerk**  
Marie Quinones, MPA, RMC, QPA



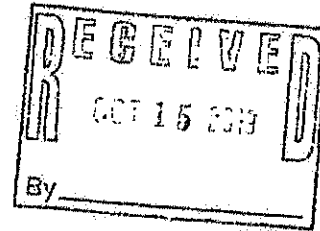
**BOROUGH OF BERGENFIELD**  
198 North Washington Avenue | Bergenfield, NJ 07621  
201.387.4055 | [www.bergenfield.com](http://www.bergenfield.com)

**COUNCIL**  
Ora Kornbluth  
*Council President*

Arvin Amatorio  
Buddy Deauna  
Thomas A. Lodato  
Rafael Marte  
Hernando Rivera

October 9, 2019

Bergen County Planning Board  
One Bergen County Plaza #4  
Hackensack, N.J. 07601



**Re: Ordinances Amending Chapter 186: Land Development  
Borough of Bergenfield**

Dear Sir/Madam:

Please be advised, the Bergenfield Mayor and Council adopted the following ordinances at their Work Session Meeting on Thursday, October 3, 2019:


**ORDINANCE 19-2554 - AN ORDINANCE AMENDING "SCHEDULE B" OF THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "LAND DEVELOPMENT"**

**ORDINANCE 19-2556 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD, NEW JERSEY"**

**ORDINANCE 19-2557 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "ZONING"**

Enclosed, please find copies of the above referenced ordinances for your records. Should have any questions or need further information, please do not hesitate contact me.

Sincerely,

  
Marie Quinones  
Borough Clerk

**B-1 & B-2 AFFORDABLE HOUSING OVERLAY ZONE**

ORDINANCE NO. 19-2556

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "Land Development Ordinance of the Borough of Bergenfield, New Jersey"

---

BE IT ORDAINED by the Borough Council of the Borough of Bergenfield, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Borough Bergenfield, Chapter 186 entitled "Land Development Ordinance of the Borough of Bergenfield, New Jersey".

Section 1

- A. §186-3 The following term shall be added in correct alphabetic order:  
INCLUSIONARY DEVELOPMENT—A development containing both affordable units, as defined in the Fair Housing Act, as amended, and market-rate units.
- B. The list of zones provided in Article VI Zoning Regulations and Establishment of Zones, Section 186-36, Enumeration of Zones established is hereby amended to include:
- |         |                                      |
|---------|--------------------------------------|
| B-1 AHO | B-1 Affordable Housing Overlay Zone. |
| B-2 AHO | B-2 Affordable Housing Overlay Zone. |
- C. 186-37 "Schedule A" is amended by the addition of the following two zones:
- |         |                                      |
|---------|--------------------------------------|
| B-1 AHO | B-1 Affordable Housing Overlay Zone. |
| B-2 AHO | B-2 Affordable Housing Overlay Zone  |

Permitted uses for each zone are:

1. All principal permitted uses, accessory uses and conditional uses for the underlying zone are allowed.
  2. Inclusionary developments on upper floors only as a principal use.
- D. §186-38.1 Zoning Map is herein amended and supplemented to depict the B-1 Affordable Housing Overlay Zone on the following properties;  
All properties with Washington Avenue frontage in the B-1 zone north of Clinton Avenue to the municipal boundary line.
- §186-38.1 Zoning Map is herein further amended and supplemented to depict the B-2 Affordable Housing Overlay Zone on the following properties;  
All properties with Washington Avenue frontage in the B-2 zone north of Clinton Avenue to the municipal boundary line.

- E. §186-49 Off street parking and loading areas is hereby amended to delete existing paragraph N and replace this paragraph with the following:

- N. All residential parking shall comply with the New Jersey Residential Site Improvement Standards. Pursuant to N.J.A.C.5:21-4.14(e), when housing is included in mix-use development, a shared parking approach to the provision of parking shall be permitted. Furthermore, if applicants can demonstrate there is sufficient overnight on-street parking in proximity to their site, applicants can apply those available spaces to their development on a non-exclusive basis.

## Section 2

The following Article is hereby included in the Land Development Ordinance:

### ARTICLE VIIIA

B-1 AHO Affordable Housing Overlay Zone

B-2 AHO Affordable Housing Overlay Zone

## §186-63.5 Objectives.

- A. Objectives. The provisions of this section are intended to foster the planning and redevelopment of the above noted Washington Avenue properties into a vibrant mixed-use development, and to promote the health, safety, and general welfare of the public and the Borough of Bergenfield through the utilization of overlay zoning techniques, encouraging the construction of inclusionary housing consistent with smart growth design principles by supplementing the existing B1 and B2 zone regulations which continue to remain in effect.

§186-63.6 Design requirements.

All mixed-use inclusionary developments shall comply with the following design requirements and standards.

- A. Area and Bulk Standards. Schedule B of the Bergenfield Zoning Ordinance is hereby amended through the addition of the following two (2) new rows.

Designation	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Min. Lot Depth (ft.)	Min. Building Footprint (sq. ft.)	Min. Building Height (ft.)	Min. Setback (ft.)	Min. Floor Area Ratio (FAR)	Min. Parking (per unit)
B-1 Affordable Housing Overlay	N/A	N/A	85	65	40/3	10	5/10	15
B-2 Affordable Housing Overlay	10,000	100	85	55	40/3	10	5/10	15

- B. The intent in adopting the B-1 Affordable Housing Overlay Zone and B-2 Affordable Housing Overlay Zone is to maximize development opportunities to locate inclusionary housing in upper floors in both existing and new buildings. Residential development is expressly prohibited in the first floor of any building with frontage upon Washington Avenue. Upper floor elevations, regardless if existing or proposed, are permitted to be occupied residentially.

- C. Affordable housing as defined in NJAC 5:80-26.2 shall be developed in accordance with the price stratification and bedroom distribution as required by N.J.A.C. 5:93.

§ 186-63.7 Yards.

All new buildings shall comply with the appropriate setbacks and coverages as detailed on Schedule B. In the B-1 Affordable Housing Overlay Zone or the B-2 Affordable Housing Overlay Zone buildings with non-conforming setbacks shall be permitted upper story expansion if exclusively designed for and occupied as an inclusionary development provided that the upper floor(s) setback is not less than the existing non-conforming building and post-expansion the property will comply with all coverage limitations as required in Schedule B.

§186-63.8 Miscellaneous Provisions.

- A. Density as defined in NJSA:40-55D-4 shall not exceed 15 dwelling units per acre if units are to be offered as for-sale dwellings. Affordable housing setaside of ownership units shall be a minimum of 20%. Maximum permitted density shall not exceed 20 dwelling units per acre if the dwellings are to be offered for rent. Affordable housing setaside of rental units shall be a minimum of 15%.
- B. Affordable housing units shall be designed, constructed, marketed and maintained in strict compliance with Bergenfield's Affordable Housing Ordinance and applicable regulations of the State of New Jersey or Court Order.
- C. Occupancy of affordable dwellings shall be limited to income qualified households, marketed, priced and deed restricted in compliance with all applicable regulations promulgated by the State of New Jersey or in accordance with any requirements established by Court order.
- D. Maximum building height shall not exceed three (3) stories or 40 feet.

Section 3

All Ordinances of the Borough of Bergenfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4

If any 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.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

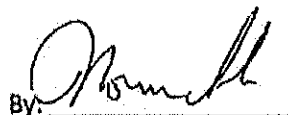
**Introduced: September 3, 2019**

**Adopted: October 3, 2019**

ATTEST:

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

  
Marie Quinones, Borough Clerk

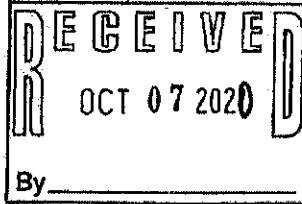
BY:   
Norman Schmelz, Mayor

## APPENDIX F

**BOROUGH OF BERGENFIELD  
PUBLIC NOTICE**

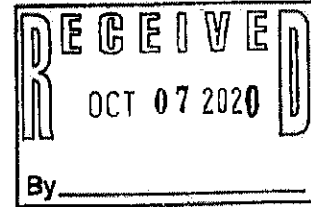
The following Ordinance which was introduced at a meeting of the Mayor and Council of the Borough of Bergenfield on Tuesday, August 18, 2020 was adopted at a Work Session meeting of the Mayor and Council on Tuesday, October 6, 2020:

**ORDINANCE 20-2567 - AN ORDINANCE TO AMEND, SUPPLEMENT, AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, LAND USE, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD"**



Marie Quinones  
Borough Clerk  
October 12, 2020

ORDINANCE NO. 20-2567  
BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY



AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, LAND USE, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD"

---

BE IT ORDAINED by the Borough Council of the Borough of Bergenfield, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Land Development Ordinances of the Borough of Bergenfield, Chapter 186.

Section 1

**Article VI Zoning Regulations and Establishment of Zones** is hereby amended in the following particulars only.

**Section 186-40. Regulations applicable to all zones** is amended by the inclusion of a new sub-paragraph as detailed herein.

- P. Every development that creates or generates five (5) or more new residential units in a multifamily housing or mixed-use development shall deed restrict at least 20% of the total number of housing units in a for-sale development as housing affordable to low-and moderate-income households as these terms are defined in N.J.A.C.5:93. The affordable housing rental setaside is hereby established at 15% of the total number of housing units. This requirement is unwaivable. Any effort on the part of a developer to produce less than a 20% affordable housing setaside for future developments not in the Settlement Agreement or Fair Share Plan is contrary to the public good and is a prima facie basis for the reviewing board to deny the development application in full. All such affordable housing generated pursuant to this provision shall fully comply with Bergenfield's Affordable Housing Ordinance, applicable Council on Affordable Housing regulations and the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) with the understanding that 13% of all affordable units must be offered to households earning 30% of regional median income.

Where the calculation of the number of affordable units results in a fraction of 0.5 or greater, the affordable housing obligation shall be rounded up to the next whole number. If less than 0.5, the developer may elect to make a payment-in-lieu to Bergenfield's affordable housing trust account for the fractional obligation at a

cost of \$200,000.00 per unit. By way of example, a 0.3-unit affordable housing obligation would result in a payment-in-lieu of \$6,000.00.

This provision does not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of Bergenfield or its Boards or agencies to grant such rezoning, variance or other relief to a developer.

Section 2

All Ordinances of the Borough of Bergenfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3

If any 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.

Section 4

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF BERGENFIELD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY

  
Marie Quinones, Borough Clerk

  
Arvin Amatorio, Mayor