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Architecture

Planning

Landscape Architecture

Fair Share Plan Appendices

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Bethlehem Township, Hunterdon County, New Jersey

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May 2010



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Appendix A.

Planning Board Resolution Adopting the Housing Element and Fair Share Plan

Bethlehem Township, Hunterdon County
Planning Board Resolution Adopting the Housing Element and Fair Share Plan
May 17, 2010

WHEREAS, the Planning Board of Bethlehem Township, Hunterdon County, State of New Jersey, adopted a Master Plan Reexamination Report pursuant to N.J.S.A. 40:55D-89 on December 8, 2008, and

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

WHEREAS, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement by the Governing Body; and

WHEREAS, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987-2018 fair share obligation of Bethlehem Township; and

WHEREAS, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Governing Body; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of Bethlehem Township held a public hearing(s) on the Housing Element and Fair Share Plan on May 17, 2010; and

WHEREAS, the Planning Board has determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Bethlehem Township's September 1984 Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning Board of Bethlehem Township, Hunterdon County, State of New Jersey, that the Planning Board hereby adopts the May 7, 2010 Housing Element and Fair Share Plan.


Chairman of Planning Board

I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of Bethlehem Township, Hunterdon County, on May 17, 2010


Mary Knapp
Planning Board Secretary

Appendix B.

Governing Body Resolution Endorsing the Housing Element and Fair Share Plan

**Resolution
Bethlehem Township, Hunterdon County
Governing Body Resolution Petition with an
Adopted Housing Element and Fair Share Plan**

WHEREAS, the Planning Board of Bethlehem Township, Hunterdon County, State of New Jersey, adopted the Housing Element of the Master Plan on May 17, 2010; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Planning Board adopted the Fair Share Plan on May 17, 2010; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2.

WHEREAS, The Governing Body of Bethlehem Township supports the construction of low and moderate income housing consistent with the provisions of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-311(d), which states that nothing in said Act shall require a municipality to raise or expend municipal revenue in order to provide low and moderate income housing; and

WHEREAS, The Governing Body of Bethlehem Township is mandated by New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-311(d), and COAH's substantive rules, N.J.A.C. 5:97-1, to endorse the Housing Element and Fair Share Plan or risk being subject to a builder's remedy lawsuit;

NOW THEREFORE BE IT RESOLVED that the Governing Body of Bethlehem Township, Hunterdon County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Bethlehem Township Planning Board; and

BE IT FURTHER RESOLVED that the Governing Body of Bethlehem Township, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this petition for substantive certification of the Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

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

BE IT FURTHER RESOLVED that notice of this petition for a Judgment of Compliance and Repose shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from Superior Court indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Bethlehem Township municipal clerk's office located at 405 Mine Road, Asbury during the hours of 8:30 am to 3:30 pm on Monday through Friday

for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

Diane Pflugfelder
Diane Pflugfelder, RMC
Municipal Clerk

3 June 2010
Date

Appendix C.

Workbook D

Summary of Adjusted Growth Share Projection Based On Land Capacity
(Introduction to Workbook D)

Municipality Code: **1002**

[Muni Code Lookup](#)

Municipality Name: **Bethlehem Township**

This workbook is to be used for determining the projected Municipal Growth Share Obligation by comparing growth projected by COAH with actual growth based on certificates of occupancy that have been issued from 2004 through 2008 and the RMP build-out analysis conducted under Module 2 of the Highlands RMP conformance process. Data must be entered via the "tabs" found at the bottom of this spreadsheet which may also be accessed through the highlighted links found throughout the spreadsheet. This workbook consists of five worksheets that, when combined on this introduction page, provide a tool that allows the user to enter exclusions permitted by N.J.A.C. 5:97-2.4 to determine the projected Growth Share Obligation. COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules, Highlands Council build-out figures based on Mod 2 Reports and actual growth based on COs as published by the DCA Division of Codes and Standards in The Construction Reporter are imported automatically upon entry of the Municipal Code.

[Click Here to enter COAH and Highlands Council data](#)

Municipalities seeking to request a revision to the COAH-generated growth projections based on opting in to the Highlands RMP may do so by providing this comparative analysis of COAH and RMP build-out projections. After completing this analysis, the growth projections may be revised based on the Highlands RMP build-out analysis. Actual growth must first be determined using the Actual Growth worksheet. The RMP adjustment applies only to RMP capacity limitations that are applied to growth projected from 2009 through 2018.

[Click Here to Enter Actual Growth to Date](#)

[Click Here to Enter Permitted Exclusions](#)

[Click Here to View Detailed Results from Analysis](#)

Summary Of Worksheet Comparison

	COAH Projected Growth Share	Growth Share Based on Highlands RMP
Residential Growth	194	53
Residential Exclusions	0	0
Net Residential Growth	194	53
Residential Growth Share	38.80	10.60
Non-Residential Growth	44	8
Non-Residential Exclusions	0	0
Net Non- Residential Growth	44	8
Non-Residential Growth Share	2.75	0.49
Total Growth Share	42	11

The Highlands RMP analysis results in a revision to the COAH-generated growth projection. Bethlehem Township may file this Workbook and use a Residential Growth Share of 10.6 plus a Non-residential Growth Share of 0.49 for a total Highlands Adjusted Growth Share Obligation of 11 affordable units

Growth Projection Adjustment - Actual Growth

Actual Growth 01/01/04 to 12/31/08

Municipality Name: Bethlehem Township

Residential COs Issued

As Published by D C S	21
Per Municipal Records (if different)	21
Qualified Residential Demolitions	1

Note: To **qualify** as an offsetting residential demolition, the unit must be the primary residence of the household for which the demolition permit has been issued, it had to be occupied by that owner for at least one year prior to the issuance of the demolition permit, it has to continue to be occupied by that household after the re-build and there can be no change in use associated with the property. (See [N.J.A.C. 5:97-2.5\(a\)1.v.](#)) A Certification Form must be completed and submitted for each qualifying demolition.

[Get Demolition Certification Form](#)

Non-residential CO's by Use Group	Square Feet Added (COs Issued) As Published by D C S	Square Feet Added (COs Issued) per Municipal Records (if different)	Square Feet Lost Demolition Permits Issued)	Jobs Per 1,000 SF	Total Jobs
B	0	0		2.8	0.00
M	0	0		1.7	0.00
F	0	0		1.2	0.00
S	7,892	7,892		1.0	7.89
H	0	0		1.6	0.00
A1	0	0		1.6	0.00
A2	0	0		3.2	0.00
A3	0	0		1.6	0.00
A4	0	0		3.4	0.00
A5	0	0		2.6	0.00
E	0	0		0.0	0.00
I	0	0		2.6	0.00
R1	0	0		1.7	0.00
Total	7,892	7,892	0		7.89

[Return to Main Page \(Workbook D Intro\)](#)

[Proceed to COAH Data and RMP Module 2 Build-out Data](#)

[Proceed to Exclusions Tab](#)

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Bethlehem Township

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

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

Market and Affordable Units in Prior Round Inclusionary Development Built post 1/1/04

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

(Enter Y for yes in Rental column if affordable units are rentals)

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

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

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

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

- [Return to Main Page \(Workbook D Intro\)](#)
- [Return to COAH Data and RMP Module 2 Build-out Data](#)
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COAH Growth Projections and Highlands Buildout Data

Must be used in all submissions

Municipality Name: **Bethlehem Township**

The COAH columns have automatically been populated with growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. The Highlands RMP Build-out columns have automatically been populated with residential and non-residential build-out figures from the municipal build-out results with resource and utility constraints found in Table 4 of the RMP Module 2 report. Always check with the Highlands Council for updates. If figures have been updated, enter updated build-out results. Use the Tabs at the bottom of this page or the links within the page to toggle to the exclusions worksheet of this workbook. After entering all relevant exclusions, toggle back to the introduction page to view the growth share obligation that has been calculated based on each approach.

COAH Projections

From Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq.
Allocating Growth To Municipalities

Residential	Non-Residential
194	44

Highlands RMP Buildout Analysis

From Module 2
Table 4 – Municipal Build-Out Results With Resource and Utility Constraints
Updated as of October 2, 2009

	Preservation Area	Planning Area	Totals
Residential units – Sewered	0	0	0
Septic System Yield	22	11	33
Total Residential Units	22	11	33
Non-Residential Jobs – Sewered	0	0	0

Note: Always check with the Highlands Council for updated municipal Build-out numbers. Enter build-out figures in the appropriate boxes only if revised figures have been provided by the Highlands Council.

[Click Here to link to current Mod 2 Build-Out Reports](#)

[Proceed to Enter Prior Round Exclusions](#)
[Retrun to Enter Actual Growth](#)
[Return to Main Page \(Workbook D Intro\)](#)

Comparative Analysis Detail For Bethlehem Township

The following chart applies the exclusions permitted pursuant to N.J.A.C 5:97-2.4 to both the COAH growth projections and the projected growth that results from the Highlands RMP build-out analysis plus actual growth for the period January 1, 2004 through December 31, 2008.

	COAH			Highlands	
	Residential	Non-Residential		Residential	Non-Residential
Projected Growth From COAH Appendix F(2)	194	44			
Residential Exclusions per 5:97-2.4(a) from "Exclusions" tab COs for prior round affordable units built or projected to be built					
Inclusionary Development	0		Inclusionary Development	0	
Supportive/Special Needs Housing	0		Supportive/Special Needs Housing	0	
Accessory Apartments	0		Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0		Municipally Sponsored or 100% Affordable	0	
Assisted Living	0		Assisted Living	0	
Other	0		Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	0		Market Units in Prior Round Inclusionary development built post 1/1/04	0	
Subtract the following Non-Residential Exclusions per 5:97-2.4(b) from "Exclusions" tab			Subtract the following Non-Residential Exclusions per 5:97-2.4(b) from "Exclusions" tab		
Affordable units	0		Affordable units	0	
Associated Jobs		0	Associated Jobs		0
Net Growth Projection	194	44	Net Growth Projection	53	8
Projected Growth Share (Residential divided by 5 and jobs divided by 16)	38.80	2.75	Projected Growth Share (Residential divided by 5 and jobs divided by 16)	10.60	0.49
Total Projected Growth Share Obligation		42			11
		Affordable Units			Affordable Units

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Appendix D.

Supportive and Special Needs Highlands Council Waiver



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

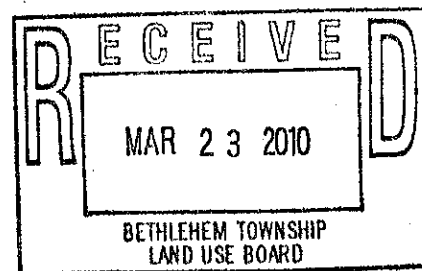
Division of Watershed Management
Bureau of Watershed Regulation
P.O. Box 418, 401 East State Street
Trenton, New Jersey 08625-0418
Telephone: (609) 984-6888
Fax: (609) 984-6505
www.state.nj.us/dep/watershedmgt

BOB MARTIN
Acting Commissioner

Date: **MAR 19 2010**

Honorable, John Graefe
Mayor, Bethlehem Township
405 Mine Road
Bethlehem, New Jersey 08802

Re: Group Home for the Developmentally Disabled
Block: 26, Lot(s): Exception Area (Lot 2.05)
Vliet Farm Road
Bethlehem Township, Hunterdon County
Upper Delaware Water Quality Management Plan (WQMP)
Program Interest No.: 435437
Activity No.: CSD090008



Agency Determination: **Highlands Act – Exempt**
Exemption #1
Water Quality Management Plan – Consistent

Dear Mayor Graefe:

This letter is forwarded in reply to your request for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination. Based on the information submitted, the Department of Environmental Protection (“Department”) has determined that the proposed project/activity is located within the Highlands Preservation Area. Therefore, the Department has reviewed the proposed ARC group home project to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38 (Highlands Rules) as well as the requirements defined in the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15.

The project/activity subject of this review includes the proposed construction of a group home within an area excepted from Green Acres funding within existing Lot 2 of tax block 26 of the official tax map of Bethlehem Township, Hunterdon County. We understand the exception area would be designated as new

Lot 2.05, Block 26, of the tax map. The total acreage of the proposed ARC group home project site would be approximately 9.06 acres. The proposed group home would serve developmentally disabled adults, and would house twelve (12) full-time residents, living in three (3), four-bedroom, modular units (the "Group Home"). There would be staff members on premises to assist the residents with their daily needs; however, staff members would not reside at the proposed Group Home. A gravel driveway, asphalt parking areas, and concrete walkways are also proposed to be constructed to provide access to the Group Home. The proposed site plan was prepared by Robert S. O'Brien, P.E., of Hatch Mott MacDonald, dated May 29, 2009 (unrevised), titled: "SITE PLAN FOR GROUP HOME FOR THE DEVELOPMENTALLY DISABLED IN BETHLEHEM TOWNSHIP HUNTERDON COUNTY, NEW JERSEY TAX MAP SHEET 5 BLOCK 26, LOT 2.05" (the "Plan").

The projected wastewater flow for the Bethlehem Township Group Home depicted on the Plan is 1,950 gallons per day (GPD) [based on three (3), four-bedroom modular units @ 650 GPD each]. The proposed Group Home would use an individual subsurface sewage disposal system and generate less than 2,000 gallons per day for wastewater disposal.

In March of 2001 and prior to passage of the Highlands Act, the Township of Bethlehem, Hunterdon County (Bethlehem), and ARC of Hunterdon County, Inc. (ARC) entered into a Memorandum of Understanding (MOU) regarding the construction of a group home for persons with developmental disabilities. The MOU envisioned a group home that would consist of up to three structures, each with four living units, to be developed and operated by ARC. The property upon which these structures are to be constructed was acquired by Bethlehem as part of a larger Green Acres purchase and was established as an exception area. Under the MOU, Bethlehem agreed to set aside or to convey a portion of the tract to ARC to construct a group home.

The Department reviewed the materials submitted to determine the applicability of the provisions of the Highlands Rules. As a result, the Department has determined the Group Home would meet the definition of "Major Highlands Development," as defined at N.J.A.C. 7:38-1.4, since the proposal is a residential development that would result in the ultimate disturbance of one acre or more of land, a cumulative increase in impervious surface by one-quarter acre or more, and requires an environmental land use or water permit. However, the Highlands Rules at N.J.A.C. 7:38-2.3(a) set forth various exemptions. After a careful review of the information submitted, the Department has determined that the Group Home described on the Plan qualifies for the following exemption:

Construction of a single-family dwelling, for an individual's own use or the use of an immediate family member on a lot owned by the individual on August 10, 2004 or under contract for purchase on or before May 17, 2004.

Supporting documentation includes:

- A copy of the Deed for Block 26, Lot 2.0, made on October 7, 1999, filed with the County of Hunterdon on October 12, 1999, between the Township of Bethlehem, Grantor, and the Township of Bethlehem, Grantee.
- An AFFIDAVIT OF THE DEPUTY MAYOR OF THE TOWNSHIP OF BETHLEHEM, Greg Glazar, dated July 2, 2009, certifying that "the proposed project is for a group home facility or facilities, which is substantially similar to that of a single-family dwelling, for placement of

mentally challenged individuals”, and “the subject property on which the proposed project will be located has not been formally subdivided, merged or in any other ways had its lot lines adjusted subsequent to the date of the submitted deed.”

- A copy of the Bethlehem Township Tax Map dated October 9, 1963 and last revised February 14, 2000, along with a copy of the “WARREN COUNTY ROD & GUN CLUB NO.1 MINOR SUBDIVISION” plan, dated August 1999 and last revised September 20, 1999, showing the subject property of this review as individually delineated within existing Lot 2 and identified as “RECREATION AREA (Not Funded by Green Acres)”.

Therefore, the proposed Group Home depicted on the Plan is deemed exempt from the provisions of the Highlands Rules, subject to the following limitation(s):

This exemption determination is limited to the land area and specific scope of the activities described herein or as shown on the referenced site plan above. This determination does not eliminate the need for any other permits, approvals, or certifications required by the Department or any Federal, State, county or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but are not limited to sewer extension and discharge approvals under the Water Pollution Control Act (N.J.S.A. 58:10A), water main extensions under the Safe Drinking Water Act (N.J.S.A. 58:12A), approval under the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.), water allocation or registration pursuant to the Water Supply Management Act (N.J.S.A. 58:1A), approvals under the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B) and approvals under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.).

If the property is transferred or sold to anyone other than the ARC or a similar entity organized for the purposes of operating a group home as that term is defined under N.J.S.A. 40:55D-66.1 & 2 prior to the construction of the group home the exemption will expire. After construction all existing impervious surface and disturbance on the site on that date would be considered exempt. After transfer or sale, any further development would not be exempt. In addition, the immediate transfer or sale of the property to anyone other than the ARC or a similar entity organized for the purposes of operating a group home as that term is defined under N.J.S.A. 40:55D-66.1 & 2 may result in Enforcement referral.

The exemption of the proposed community residence is based upon the Legislature’s specific recognition of such structures under the Municipal Land Use Law, N.J.S.A. 40:55D-66.1 & 2, and is also based upon the Department’s regulation that such structures should be treated as equivalent to a single-family dwelling, as long as the Group Home proposes and uses a sanitary wastewater design flow of less than or equal to 2,000 gallons per day, N.J.A.C. 7:38-2.3(a). The construction or use of the proposed structure(s) for any use or purpose other than as a community residence as that term is defined at N.J.S.A. 40:55D-66.2 shall render this exemption null and void.

The Department also reviewed the Group Home project for consistency with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15 and the provisions and recommendations of the Upper Delaware WQMP. Based on our review, the proposed project is consistent with the WQMP and is in accordance with the WQMP Rule (N.J.A.C. 7:15). This determination is made based on the following:

The project/activity will be served by an individual subsurface sewage disposal system with a discharge to groundwater 2,000 GPD or less. Furthermore, the project site is mapped in the WQMP as service area for Individual Subsurface Sewage Disposal Systems <2,000 GPD.

Please be advised that should the township propose any development including sewage generating structures on any of the contiguous lots and blocks owned by the township where the aggregate sanitary wastewater design flow (including the Bethlehem ARC facility) exceeds 2,000 GPD, a New Jersey Pollutant Discharge Elimination System - Discharge to Ground Water (NJPDES-DGW) permit and a Wastewater Management Plan amendment will be required.

A copy of this determination letter must be enclosed with any future permit application(s) filed with the Department.

This Highlands Applicability and Consistency Determination is subject to the following limitations:

- (1) This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, County or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but are not limited to, sewer extension and water main extension approvals, a water allocation, approvals under the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A) and approvals required under the Flood Hazard Area Control Act Rules, (N.J.A.C. 7:13).
- (2) The issuance of this determination shall not obligate the Department to issue any other approvals, permits or certifications required for this project/activity.
- (3) This determination shall be considered null and void if changes are made to the project that would increase the scope or area disturbed by the project, or result in a change in the use or change the method of wastewater treatment; or if the information submitted to obtain this determination from the Department is later determined to be inaccurate.

The Department published notice of the proposed Group Home for the Developmentally Disabled project in the August 5, 2009 DEP Bulletin and received no public comments.

If the applicant disputes the Department's factual findings or any of its conditions or if anyone is aggrieved by this determination, that person may request an adjudicatory hearing. A request for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provides verification of the date of delivery to the Department, within 30 days of notice of this decision published in the DEP Bulletin in accordance with N.J.A.C. 7:38-1.5. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Checklist and Tracking Form (form enclosed).

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Division of Watershed Management. If you have any questions or require further assistance, please call Jennifer Desmond at (609) 984-6888.

Sincerely,



Terry Pilawski, Chief
Bureau of Watershed Regulation

Enclosure(s)

- c: Robert O'Brien, Township Engineer, Hatch Mott MacDonald
Diane Pflugfelder, Bethlehem Township Clerk
Mike McCartney, Bethlehem Township Construction Official
Bethlehem Township Planning Board
Bethlehem Township Environmental Commission
Hunterdon County Planning Board
Hunterdon County Environmental Commission
Christine Ross, Highlands Council
Barbara Baus, NJDEP, Bureau of Coastal & Land Use Compliance & Enforcement (w/o encl.)
Armand Perez, NJDEP, Bureau of Coastal & Land Use Compliance & Enforcement (w/o encl.)
Ron Bannister, NJDEP, Bureau of Non-Point Pollution Control
Lou Cattuna, NJDEP, Division of Land Use Regulation (w/o encl.)
Barry Miller, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Jennifer Desmond, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Abigail Amutah, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Bureau of Watershed Regulation - File

Appendix E.

Draft Accessory Apartment Ordinance

Ordinance ____
Draft Ordinance Creating the Accessory Apartment Program
Township of Bethlehem, Hunterdon County, New Jersey

Accessory Apartments.

1. Accessory apartments shall be permitted on all single-family detached lots.
2. The Town shall provide a subsidy of \$20,000 to each property owner creating a moderate income accessory apartment and \$25,000 to each property owner creating a low income accessory apartment. Said subsidy shall be provided within 60 days of the date which the certificate of occupancy for the accessory apartment is issued and the deed restriction is in place.
3. Each accessory apartment unit shall be for rent.
4. Each accessory apartment shall, for a period of at least 10 years, be rented only for such rents as shall be affordable to individuals and families of low or moderate income, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
5. There shall be a recorded deed or declaration of covenants and restrictions applying to each accessory apartment, running with the land, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
6. No accessory apartment shall receive Board approval or a zoning permit unless the property owner demonstrates that the septic system is adequate to handle the increased loads occasioned by the additional occupancy of the property.
7. The accessory apartment may be located in and part of the principal dwelling, or in a garage, carriage house, barn or other accessory building.
8. No accessory apartment shall receive Board approval or zoning permit unless the property owner demonstrates that an adequate potable water supply is available.
9. There shall be no more than two accessory apartments per single-family dwelling on each lot.
10. The accessory apartment shall be in full compliance with all applicable health and construction codes prior to occupancy.
11. Each accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
12. Each accessory apartment shall have a private entrance with direct access to the outdoors.
13. In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this chapter, all of the requirements of this chapter in addition to meeting COAH criteria shall apply.
14. The accessory apartment shall be affirmatively marketed to the housing region, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26)..

15. Adequate parking for the accessory apartment shall be provided in a manner which shall be compatible with the established neighborhood character.

Appendix F.

Market to Affordable Pro Forma

Pro Forma
Market to Affordable Program
Bethlehem Township, Hunterdon County, New Jersey

Market to Affordable Rental Program Parameters

- Acquire market-priced for-sale units, provide a subsidy to allow an income-eligible household to sell the housing unit at an affordable price
- Create 6 affordable household sale units – 3 low income units and 3 moderate income units
- Affordability controls - Place a thirty (30) year deed restriction on each unit

Median market sale prices

- Average sales price in the Township is \$330,000.

Sample affordable sales permitted

- Very Low income unit: \$65,540 average sale price for a 2 or 3 bedroom unit
- Low income unit: \$109,234 average sale price for a 2 or 3 bedroom unit
- Moderate income unit: \$152,928 average sale price for a 2 or 3 bedroom unit

Rehabilitation Costs

- Approximately \$10,000 per unit necessary for unit to meet the applicable building code

Average (weighted) per unit one time subsidy – \$223,484

- Very Low Income Subsidy - \$274,460 [(\$330,000 – \$65,540) + \$10,000]
- Low Income Subsidy – \$230,766 [(\$330,000 – \$109,234) + \$10,000]
- Moderate Income Subsidy – \$187,072 [(\$330,000 – \$152,928) + \$10,000]

Program Deficit: \$1,340,904

Print

Select Language: English

Residential / Condo / Coop Listings
Under Contract

RESIDENTIAL / Condo / Coop Listings

No:	ML#	MEDIA	St	Address	Town	Code	LTSZ	ListPrice	STYLE	RM	BR	TBT	Gar	BSMT	UCD	SoldPrice	DOM		
1	2740682	<u>1</u>	Under Contract	<u>1086 State Route 173 E</u>	Bethlehem Twp	1902	.98 AC*	\$166,000	Colonial	6	3	2	0	Yes	03/24/2010	\$	58		
2	2717353	<u>10</u>	Under Contract	<u>433 CHARLESTOWN RD*</u>	Bethlehem Twp	1902	157 x330 x 210	\$299,000	Colonial	10	4	2	0	Yes	03/25/2010	\$	178		
3	2748468	<u>10</u>	Under Contract	<u>321 TUNNEL RD*</u>	Bethlehem Twp	1902	1.28*	\$310,000	Colonial	6	2	1.1	2	Yes	04/30/2010	\$	65		
4	2759220	<u>25</u>	Under Contract	<u>355 TUNNEL RD*</u>	Bethlehem Twp	1902	5.538*	\$335,000	Custom Home, Ranch	6	3	2	2	Yes	04/28/2010	\$	27		
5	2650226	<u>9</u>	Under Contract	<u>499 CHARLESTOWN RD*</u>	Bethlehem Twp	1902	1.76*	\$349,000	Ranch	7	4	2.1	2	Yes	03/05/2010	\$	380		
6	2720692	<u>10</u>	Under Contract	<u>14 KENSINGTON CT*</u>	Bethlehem Twp	1902	2*	\$435,000	Colonial, Victorian	10	4	2.1	2	Yes	03/26/2010	\$	166		
7	2728043	<u>10</u>	Under Contract	<u>11 WOODBROOK RD*</u>	Bethlehem Twp	1902	7.35*	\$449,900	Raised Ranch	9	3	2.1	2	Yes	03/25/2010	\$	130		
8	2761780	<u>22</u>	Under Contract	<u>4 PFAUTH DR*</u>	Bethlehem Twp	1902	3.37 AC*	\$469,900	Colonial	9	4	2.1	2	Yes	04/22/2010	\$	13		
9	2762910	<u>17</u>	Under Contract	<u>22 THOMAS RD*</u>	Bethlehem Twp	1902	5*	\$590,000	Colonial, Custom Home	13	4	3.1	3	Yes	04/23/2010	\$	11		
10	2746872	<u>10</u>	Under Contract	<u>853 NORTON CHURCH RD*</u>	Bethlehem Twp	1902	9.44 AC*	\$650,000	Colonial	14	4	3.1	3	Yes	04/21/2010	\$	63		
Totals:								10								\$4,053,800		1091	
Average:																	\$405,380		109

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ROBERT L. BEATTY

Residential / Condo / Coop Listings
Sold

RESIDENTIAL / Condo / Coop Listings

No:	ML#	MEDIA	St	Address	Town	Code	LTSZ	ListPrice	STYLE	RM	BR	TBT	Gar	BSMT	CD	SoldPrice	DOM		
1	2595986	<u>10</u>	S	<u>149 VALLEY RD*</u>	Bethlehem Twp	1902	1*	\$310,000	Ranch	6	3	2	2	Yes	02/17/2010	\$280,000	289		
2	2706796	<u>10</u>	S	<u>949 Iron Bridge Road</u>	Bethlehem Twp	1902	3.35	\$315,000	Colonial	9	4	2	2	Yes	01/15/2010	\$300,000	150		
3	2717065	<u>10</u>	S	<u>334 TUNNEL RD</u>	Bethlehem Twp	1902	1.65 acres	\$369,900	Victorian	9	4	2	2	Yes	01/27/2010	\$350,000	46		
4	2642671	<u>10</u>	S	<u>906 MOUNTAINVIEW RD</u>	Bethlehem Twp	1902	7.188*	\$382,500	Colonial	9	4	2.1	4	Yes	04/29/2010	\$310,000	246		
5	2731791	<u>1</u>	S	<u>406 CHARLESTOWN RD*</u>	Bethlehem Twp	1902	3*	\$399,000	Colonial	9	3	3	0	No	02/05/2010	\$385,000	39		
6	2739990	<u>10</u>	S	<u>2 WILLEVER RD*</u>	Bethlehem Twp	1902	1.72*	\$525,000	Colonial, Custom Home	10	4	2.1	2	Yes	03/31/2010	\$505,000	6		
Totals:								6								\$2,301,400		776	
Average:																	\$383,566		129

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ROBERT L. BEATTY

Appendix G.

Draft Affordable Housing Ordinance

**Bethlehem Township, Hunterdon County
Draft Affordable Housing Ordinance**

AN ORDINANCE OF THE TOWNSHIP OF BETHLEHEM, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AMENDING CHAPTER __ "AFFORDABLE HOUSING" OF THE CODE OF THE TOWNSHIP OF BETHLEHEM TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING'S THRID ROUND RULES

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") has promulgated rules, set forth at N.J.A.C. 5:96 and 5:97, concerning the substantive and procedural requirements for obtaining third round substantive certification of the Township's Housing Element and Fair Share Plan; and

WHEREAS, on (Insert Date), the Court issued Hampton Borough a third round judgment of repose; and

WHEREAS, as part of its review and grant of the Township's repose, the Court requires that the Township's affordable housing ordinances be updated and brought into compliance with COAH's current rules.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bethlehem, County of Hunterdon and State of New Jersey, that the "Code of the Township of Bethlehem" ("Code") is hereby amended as follows:

Section 1. Chapter __, entitled "Affordable Housing," Deleted and Replaced. Chapter __ "Affordable Housing" of the Code is hereby deleted in its entirety and replaced with a new Chapter __ "Affordable Housing," which shall read as follows:

**Chapter __
AFFORDABLE HOUSING**

**ARTICLE I
General Program Purposes, Procedures**

§ __-1. Affordable Housing Obligation.

- A. This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning June 2, 2008 with amendments through October 20, 2008", N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate

income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").

- B. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Bethlehem Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Township Committee of the Township of Bethlehem. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- E. The Township shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Bethlehem Township Municipal Building 405 Mine Road, Asbury, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey.

§ __-2. **Definitions.** As used herein the following terms shall have the following meanings:

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“DCA” means the State of New Jersey Department of Community Affairs.

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

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

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

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:97-3.

"Housing Element" means the portion of the Township's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:97-2.3 and establishes the Township's fair share obligation.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50% or less of the median household income.

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

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

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

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

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

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

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

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

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

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

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

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and

supplemented, but does not include a market-rate unit financed under UHORP or MONI.

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

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

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

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

§ —-3. New Construction. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units <u>Completed</u>	Minimum Percentage of Low- and Moderate- Income <u>Units Completed</u>
25	0
25+1	10
50	50
75	75
90	100

B. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C. 5:97-6.4*.

D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

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

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

F. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;

- (c) An interior accessible route of travel on the first floor;
- (d) An interior accessible route of travel shall not be required between stories within an individual unit;
- (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

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

(2) To this end, the builder of restricted units shall deposit funds within the Township of Bethlehem's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

(3) The funds deposited under paragraph (2) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

(4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Bethlehem.

(5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Bethlehem's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are

deposited into the affordable housing trust fund and appropriately earmarked.

(6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

G. Maximum Rents and Sales Prices.

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

- (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
- (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the

maximum resale price established by the administrative agent be lower than the last recorded purchase price.

10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.
11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ __-4. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowners association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ __-5. Reserved.

§ __-6. Reserved.

§ __-7. Reserved.

§ __-8. Reserved.

§ __-9. Reserved.

ARTICLE II
Affordable Unit Controls and Requirements

§ __-10. Purpose.

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

§ __-11. Affirmative Marketing.

- A. The Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 3 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- D. The Administrative Agent designated by the Township shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- E. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Bethlehem.

§ __-12. Occupancy Standards.

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

§ __-13. Selection of Occupants of Affordable Housing Units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

§ __-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- E. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ __-15. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ __-16. Buyer Income Eligibility.

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

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

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

§ __-18. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hunterdon. A copy of the filed document

shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure.

§ __-19. Price Restrictions for Rental Units; Leases.

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

§ __-20. Tenant Income Eligibility.

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

3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ __-21. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

§ __-22. Reserved.

§ __-23. Reserved.

§ __-24. Reserved.

ARTICLE III
Administration

§ __-25. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison for the Township of Bethlehem is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Township Committee and be subject to the approval of the Court.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Bethlehem.
- C. The Municipal Housing Liaison must meet COAH's requirements for qualifications, including initial and periodic training.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of

Bethlehem, including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
2. The implementation of the Affirmative Marketing Plan and affordability controls.
3. When applicable, supervising any contracting Administrative Agent.
4. Monitoring the status of all restricted units in the Township of Bethlehem's Fair Share Plan;
5. Compiling, verifying and submitting annual reports as required by COAH;
6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

§ __-26. Administrative Agent.

- A. The Township shall designate by resolution of the Township Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

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

§ __-27. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - I. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

(b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Bethlehem Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ —-28. **Appeals.** Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

Section 2. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any Court of competent jurisdiction that any such portion of this Ordinance is un-Constitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of the Township of Bethlehem, in the County of Hunterdon, State of New Jersey, held on (Insert Date). It will be further considered for final passage, after public hearing thereon, at a meeting of the Township Committee to be held in the meeting room of the Municipal Building, 405 Mine Road, Asbury on (Insert Date) at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

Diane Pflugfelder, R.M.C., Clerk

Appendix H.

Draft Development Fee Ordinance

Bethlehem Township, Hunterdon County
Development Fee Ordinance
Draft May 6, 2010

1. Purpose

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

2. Basic requirements

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

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:

- i. **“Affordable housing development”** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
- ii. **“COAH” or the “Council”** means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- iii. **“Development fee”** means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- iv. **“Developer”** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. **“Equalized assessed value”** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. **“Green building strategies”** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

- a) Imposed fees
 - i. Within all district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) percent of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. 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 may be required to pay a development fee of six (6%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. 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.
 - iii. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

5. Non-residential Development fees

- a) Imposed fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Bethlehem Township as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Bethlehem Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) 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 the 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 Bethlehem Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Bethlehem Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. payments in lieu of on-site construction of affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with [insert municipal name]'s affordable housing program.

- c) Within seven days from the opening of the trust fund account, Bethlehem Township shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Bethlehem Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse Bethlehem Township for past housing activities.
- c) At least 30 percent 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 affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

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

9. Monitoring

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

10. Ongoing collection of fees

- a) The ability for Bethlehem Township to impose, collect and expend development fees shall expire with its judgment of compliance unless Bethlehem Township has filed an adopted Housing Element and Fair Share

Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Bethlehem Township fails to renew its ability to impose and collect development fees prior to the expiration judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Bethlehem Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Bethlehem Township retroactively impose a development fee on such a development. Bethlehem Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Appendix I.
Spending Plan



Clarke Caton Hintz

Third Round Spending Plan

Township of Bethlehem, Hunterdon County, New Jersey

May 2010

**INTRODUCTION**

Bethlehem Township has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was first approved by COAH on February 3, 1999.

As of July 17, 2008, Bethlehem Township has collected \$53,266.32, expended \$29,913.34 resulting in a balance of \$23,352.98. The balance as of April 31, 2010 is \$24,728.65; the total amount collected as of April 31, 2010 is \$339,765.

As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$49,811.31. From January 1, 2005 through July 17, 2008, Bethlehem Township collected \$15,417.42 in interest and development fees. From January 1, 2005 through July 17, 2008, Bethlehem Township expended funds on the affordable housing activities detailed in section 4 of this spending plan.

All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account at PNC Bank. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.



REVENUES FOR CERTIFICATION PERIOD

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

- (a) Development fees: \$115,400
 - 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
 - 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
 - 3. Future development that is likely to occur based on historical rates of development.

- (b) Payment in lieu (PIL): \$0

Bethlehem Township does not anticipate any payments in lieu (PIL) of construction from developers.

- (c) Other funding sources: \$0

Bethlehem Township is not anticipating collecting money from other funding sources at this time. All monies in the Affordable Housing Trust fund are anticipated to come from development fees, payments in lieu of construction and interest.

- (d) Projected interest: \$4,500

Based on the current average interest rate, Bethlehem Township anticipated collecting \$4,500 in interest through 2018.



Clarke Caton Hintz

Source of Funds – Housing Trust Fund 2010 Through 2018 (thousands)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Development fees:										
Approved Development	\$4.8	\$10.6	\$4.8	\$4.9	\$4.9	\$4.9	\$4.9	\$4.9	\$4.9	\$49.6
Development Pending Approval	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Projected Development	\$7.3	\$7.3	\$7.3	\$7.4	\$7.3	\$7.3	\$7.3	\$7.3	\$7.3	\$65.8
Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$4.5
<i>Total</i>	\$12.6	\$18.4	\$12.6	\$12.8	\$12.7	\$12.7	\$12.7	\$12.7	\$12.7	\$119.9



Bethlehem Township projects a total of \$119,900 in revenue to be collected between May 1, 2010 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

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

- (a) Collection of development fee revenues:

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

- (b) Distribution of development fee revenues:

The Planning Board adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body’s resolution.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

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

The cost of Bethlehem Township’s rehabilitation and new construction programs is \$51,175. Please see below for additional information.



Rehabilitation program: \$50,000

Bethlehem Township will operate a rehabilitation program to satisfy the five (5) unit rehabilitation obligation. The Township is dedicating \$10,000 per rehabilitation unit; as such, the cost of the program is anticipated to be \$50,000. Please see the Housing Element and Fair Share Plan for additional information

New Construction Program: \$1,175

Twelve bedrooms of supportive and special needs housing will be provided to satisfy a portion of the prior round obligation. The Township will provide land as a subsidy and will provide additional funding if necessary. Please see the Housing Element and Fair Share Plan for additional information.

The Township will conduct a 10 unit prior round accessory apartment program (five (5) low income and five (5) moderate income). Subsidies in the amount of \$25,000 for a moderate income unit and \$20,000 for a low income units shall be provided.

The Township will conduct a six (6) unit buy down program. Please see the pro forma for this project and the Housing Element and Fair Share Plan for additional information.

The Township will participate in the Regional Affordable Housing Development Partnership Program. The Township will transfer five (5) units at the established minimum per unit transfer amount for the receiving municipality's housing region consistent with COAH's Regional Affordable Housing Development Planning Program Guidelines (RAHDPP Guidelines). The per unit transfer amount ranges from \$67,000 to \$80,000.

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

Bethlehem Township is required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.



Projected Minimum Affordability Assistance

Actual development fees and interest through 3/31/2010		\$339,765
Development fees and interest projected 2010-2018	+	\$119,900
Less housing activity expenditures through 6/2/2008	-	\$304,883
<i>Total</i>	=	154,782
30 percent requirement	x 0.30 =	\$46,434
Less Affordability assistance expenditures through 12/31/2004	-	\$0
<i>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	=	\$46,434
<i>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	÷ 3 =	\$15,478

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

Bethlehem Township will dedicate \$46,434 from the affordable housing trust fund to render units more affordable, including \$15,478 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

- Down-payment assistance;
- Rental assistance;
- Security deposit assistance
- Low interest loans
- Assistance with homeowners association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units, etc.



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

Bethlehem Township may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Maximum Administrative Expenses

Actual development fees and interest through 3/31/2010		\$339,765
Development fees and interest projected 2010-2018	+	\$119,900
Less RCA expenditures actual and projected	-	\$180,000
<i>Total</i>	=	\$279,665
20 percent maximum permitted administrative expenses	x 0.20 =	\$55,933
Less administrative expenditures through 3/31/2010	-	\$9,913.34
<i>Projected allowed administrative expenditures</i>	=	\$46,019.66

Bethlehem Township projects that \$46,019.66 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Township Planner fees related to obtaining substantive certification;
- Rehabilitation administration fees
- Administration fees related to the Martin Village inclusionary development
- Administration fees related to the Bethlehem Electric inclusionary development
- Administration fees related to the Luster / Dodger Blues inclusionary development
- Administration fees related to the Market to Affordable program



EXPENDITURE SCHEDULE

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



Projected Expenditure Schedule 2010 Through 2018

Program	Units Projected	Funds Expended and/or Dedicated (thousands)									
		2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation Program	5	\$0	\$0	\$10	\$10	\$10	\$0	\$0	\$10	\$10	\$50
New Construction Programs	3	\$0	\$0	\$1.18	\$0	\$0	\$0	\$0	\$0	\$0	\$1.18
<i>Total Programs</i>	5	\$0	\$0	\$21.2	\$10	\$10	\$0	\$0	\$10	\$10	\$51.18
Affordability Assistance		\$0	\$0	\$0	\$0	\$9.2	\$9.3	\$9.3	\$9.3	\$9.3	\$43.4
Administration		\$5.2	\$5.1	\$5.1	\$5.1	\$5.1	\$5.1	\$5.1	\$5.1	\$5.1	\$46
<i>Total</i>		\$5.2	\$5.1	\$26.3	\$15.1	\$24.3	\$14.4	\$14.4	\$24.4	\$24.4	\$140.6

**EXCESS OR SHORTFALL OF FUNDS**

Pursuant to the Housing Element and Fair Share Plan, the governing body of Bethlehem Township has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation or new construction programs. In the event that a shortfall of anticipated revenues occurs, Bethlehem Township will bond to satisfy the gap in funding. A copy of the adopted resolution is attached.

BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with Bethlehem Township's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

SUMMARY

Bethlehem Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated November 2008.

Bethlehem Township has a balance of \$24,728.65 as of April 31, 2010 and anticipates an additional \$119,900 in revenues before the expiration of its Judgment of Compliance and Repose for a total of \$144,628.65. The municipality will dedicate \$51,175 toward its rehabilitation and new construction programs, with the rehabilitation and prior round programs receiving priority funding. Additionally the Township will dedicate \$46,434 to render units more affordable, and up to \$46,019.66 of revenue for administrative costs. Any shortfall of funds will be offset by bonding. The municipality will dedicate any excess funds toward rehabilitation.



Spending Plan Summary

Revenues	
Balance as of April 31, 2010	\$24,729
1. Development fees	+ \$114,400
2. Payments in lieu of construction	+ \$0
3. Other funds	+ \$0
4. Interest	+ \$4,500
<i>Total Projected Revenue</i>	= \$143,629
Expenditures	
Funds used for Rehabilitation	- \$50,000
Funds used for New Construction	- \$1,175
1. Supportive & Special Needs	
2. Accessory Apartments	
3. Market to Affordable Program	
4. RAHDP Program	
Affordability Assistance	- \$46,434
Administration	- \$46,020
Excess Funds for Additional Housing Activity	= \$0
<i>Total Projected Expenditures</i>	= \$143,629
<i>REMAINING BALANCE</i>	= \$0

Appendix J.

Governing Body Resolution of Intent to Bond

Resolution _____
Governing Body Resolution of Intent to Bond In Case of Shortfall
Bethlehem Township, Hunterdon County, New Jersey

WHEREAS, pursuant to N.J.A.C. 5:96-2.1, the Township Committee of the Township of Bethlehem in Hunterdon County, New Jersey, has endorsed an amended Housing Element and Fair Share Plan setting forth the Township's commitment to meeting its affordable housing obligation through 2018; and

WHEREAS, pursuant to N.J.A.C. 5:96-3.1, the Township Committee is submitting its Third Round Housing Element and Fair Share Plan to Superior Court for a Judgment of Repose; and

WHEREAS, this amended Housing Element and Fair Share Plan includes municipally-sponsored construction of affordable housing, accessory apartments, creation of a market to affordable program, participation in the regional affordable housing development partnership program and a rehabilitation program, for which the Township must demonstrate an adequate and stable funding source; and

WHEREAS, the Township Committee is confident that funding will be available from monies collected in the Township's affordable housing trust fund, from Federal, State or County funding sources, and/or from the funding sources set forth in "A Guide to Affordable Housing Funding Sources," dated October 2008, posted by COAH on its website to assist municipalities; and

WHEREAS, the provisions of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-311(d) state that nothing in said Act shall require a municipality to raise or expend municipal revenue in order to provide low and moderate income housing; and

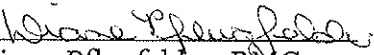
WHEREAS, COAH nonetheless requires documentation to be submitted with its Fair Share Plan to indicate the availability of funding for its affordable housing compliance mechanisms.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bethlehem in Hunterdon County, New Jersey, as follows:

1. The Township Committee determines that there is funding for the affordable housing compliance mechanisms set forth in its endorsed amended Housing Element and Fair Share Plan, consisting of funding in the Township's affordable housing trust fund and from governmental grants and/or other outside sources as set forth in the publication entitled "A Guide to Affordable Housing Funding Sources," dated October 2008, and posted by the Council on Affordable Housing on its website to assist municipalities.

2. In the event that the above-referenced funding sources are not sufficient to implement the entirety of the Township's amended Housing Element and Fair Share Plan through 2018, the Township of Bethlehem, in the discretion of the governing body then representing the Township, may determine to provide for an alternate source of affordable housing funding such as, but not limited to, municipal bonding, or elect to modify and

change said amended Housing Element and Fair Share Plan to address its remaining affordable housing obligation in lieu of municipal bonding.


Diane Pflugfelder, RMC
Municipal Clerk

DATE: 3 June 2010

Appendix K.

Draft Housing Liaison Ordinance and Appointing Resolution

Ordinance #255.52.2009

An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Bethlehem Township's Affordable Housing Program Pursuant to the Fair Housing Act.

BE IT ORDAINED by the governing body of Bethlehem Township in the County of Hunterdon and State of New Jersey that the following amendments be made to Chapter 102 of Bethlehem Township:

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of Bethlehem Township's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Bethlehem Township

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for Bethlehem Township to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for Bethlehem Township
- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Bethlehem Township, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
 - (1) Serving Bethlehem Township's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all restricted units in Bethlehem Township's Fair Share Plan;

- (3) Compiling, verifying, and submitting annual reports as required by COAH;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in Bethlehem Township as described in F. below.
- D. Subject to approval by COAH, Bethlehem Township may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of Bethlehem Township except for those responsibilities which may not be contracted out pursuant to subsection C above. If Bethlehem Township contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison.
- (1) Affirmative Marketing
 - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of Bethlehem Township and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 - (2) Household Certification
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

- (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et. seq.;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of Bethlehem Township when referring households for certification to affordable units.
- (3) Affordability Controls
- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and rental
- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing request from unit owners
- (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement
- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
 - (f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
 - (g) Providing annual reports to COAH as required.
- (7) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Introduction:	2 April 2009
First Publication:	9 April 2009
Public Hearing:	7 May 2009
Adoption:	21 May 2009
Second Publication:	4 June 2009

RESOLUTION
Adoption of ORD. # 255.52.2009

WHEREAS, Said Ordinance entitled "An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Bethlehem Township's Affordable Housing Program Pursuant to the Fair Housing Act" was passed on first reading on 2 April 2009; and

WHEREAS, The public hearing of said Ordinance has been held as advertised and is now closed,

NOW, THEREFORE, BE IT RESOLVED By the governing body of the Township of Bethlehem, County of Hunterdon and State of New Jersey that the Ordinance entitled "An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Bethlehem Township's Affordable Housing Program Pursuant to the Fair Housing Act" be passed on second reading and final adoption.

I, Diane Pflugfelder, R.M.C/C.M.C, Municipal Clerk of the Township of Bethlehem, County of Hunterdon, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the governing body at a meeting held on 21 May 2009.

Diane Pflugfelder, R.M.C/C.M.C.
Municipal Clerk

Ordinance #255.52.2009

An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Bethlehem Township's Affordable Housing Program Pursuant to the Fair Housing Act.

Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Bethlehem Township governing body at a regular meeting held on 21May 2009.

Diane Pflugfelder RMC/CMC
Municipal Clerk

Ordinance #255.52.2009

An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Bethlehem Township's Affordable Housing Program Pursuant to the Fair Housing Act.

The foregoing Ordinance was introduced at a regular meeting of the Bethlehem Township governing body held on 2 April 2009 and was read for the first time. This ordinance will be further considered for final passage by the governing body at the Municipal Building, 405 Mine Road, Asbury, NJ at a meeting on 21 May 2009 beginning at 7:30 p.m. or at any time and place to which such meeting may be adjourned. All persons interested will be given the opportunity to be heard concerning such ordinance.

Diane Pflugfelder RMC/CMC
Municipal Clerk

Resolution of the Township of Bethlehem, Hunterdon County, New Jersey,
Appointing a Municipal Housing Liaison

WHEREAS, The Township of Bethlehem has been grant repose from builder's remedy suits and an extension of time to submit a Third Round Fair Share Plan, along with other relief, by Order of the Honorable Allison E. Accurso, J.S.C. dated June 29, 2007, and, the Township's period of repose and time to submit a Third Round Plan has been extended to December 8, 2009 by Order of the Honorable Allison E. Accurso, J.S.C. dated November 26, 2008 in the matter of: Township of Bethlehem v. Council on Affordable Housing, Docket No.: SOM-L-872-07; and


WHEREAS, Pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq. Bethlehem Township is required to appoint a Municipal Housing Liaison ("MHL") for the administration of Bethlehem Township's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, Bethlehem Township has amended Chapter 102 entitled Land Use Development to provide for the appointment of an MHL to administer Bethlehem Township's affordable housing program; and

NOW THEREFORE BE IT RESOLVED, By the Governing Body of Bethlehem Township in the County of Hunterdon, and the State of New Jersey that Diane Pflugfelder is hereby appointed by the Governing Body of Bethlehem Township as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Chapter 102 of Bethlehem Township's Land Use Development Code.

Vote: aye - Jimenez
aye - Meehan
aye - Kucinski
aye - G. Glazar
aye - Graefe

I, Diane Pflugfelder, R.M.C/C.M.C, Municipal Clerk of the Township of Bethlehem, County of Hunterdon, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the governing body at a meeting held on 21 May 2009.


Diane Pflugfelder, R.M.C/C.M.C. 17 May 2010
Municipal Clerk