

Ordinance #2020-15
Affordable Housing Ordinance
Municipality of Princeton, Mercer County

AN ORDINANCE AMENDING, OR REPEALING AND REPLACING, CERTAIN SECTIONS, AS SPECIFIED BELOW, OF THE BOROUGH OF PRINCETON CODE AND THE CODE OF THE TOWNSHIP OF PRINCETON TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Council of the Municipality of Princeton, Mercer County, New Jersey, that the following Articles of the "Code of the Borough of Princeton, New Jersey, 1974" and the "Code of the Township of Princeton, New Jersey, 1968" are hereby amended, or repealed and replaced with the applicable provisions of this Ordinance, in order to address the Municipality of Princeton's constitutional obligation to provide for its fair share of very low-, low- and moderate-income housing, as directed by the Superior Court and consistent with *N.J.A.C. 5:93-1, et seq.*, as amended and supplemented, *N.J.A.C. 5:80-26.1, et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

SECTION 1: THE FOLLOWING ARTICLES OF THE "CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974" ARE HEREBY REPEALED AND REPLACED WITH THE PROVISIONS SET FORTH IN SECTION 5 OF THIS ORDINANCE BELOW:

Chapter 16 Housing

Article VIII Trust Fund for Affordable Housing
Article IX Affordable Housing Board
Article X Low and Moderate Income Housing Regulations
Article XI Affordable Housing Utility
Article XII Municipal Housing Liaison

Chapter 17A Land Use

Article XI Zoning
Section 17A-202.1 Affordable Housing Overlay Zone
Section 17A-202.2 Affordable Housing Contribution for development of 4 or less units
Section 17A-202.3 Nonresidential required growth share
Section 17A-202.5 Payment in lieu of construction
Section 17A-202.6 Cost of Administration of AH units
Section 17A-205.2 Development Fees – Purpose
Section 17A-205.3 Definitions

Section 17A-205.4 Development Fees
Section 17A-205.5 Eligible exactions, ineligible exactions and exemptions
Section 17A-205.6 Collection of fees
Section 17A-205.7 Development Fee escrow account
Section 17A-205.8 Use of Funds
Section 17A-205.9 Monitoring and enforcement
Section 17A-205.10 Penalties
Section 17A-205.11 Expiration of development fee ordinance

SECTION 2: ARTICLE XII. AFFORDABLE HOUSING, DIVISION 7, R-1/AH AND R-2/AH ZONING DISTRICTS OF THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968” (“TOWNSHIP CODE”) SHALL BE RELOCATED TO ARTICLE XI ZONING, DIVISION 2. ZONING DISTRICTS AND ARE HEREBY AMENDED AS FOLLOWS:

Division 7. R-1/AH and R-2/AH Zoning Districts shall be renamed as Subdivision XXIV R-1/AH and R-2/AH Zoning Districts

Section 10B-355 Establishment shall be renumbered as to Section 10B-272.70

Section 10B-356. Permitted Uses and computation of permitted number of units shall be renumbered as to Section 10B-272.71

Section 10B-357. Mandatory provisions governing development shall be renumbered as to Section 10B-272.72

Section 10B-358. Residential cluster requirements for the R-1AH and R-2/AH districts shall be renumbered as to Section 10B-272.73

SECTION 3: ARTICLE XII. AFFORDABLE HOUSING, DIVISION 8, RESIDENTIAL SENIOR MARKET (R-SM) PROGRAM OF THE TOWNSHIP CODE SHALL BE RELOCATED TO ARTICLE XI ZONING, DIVISION 2. ZONING DISTRICTS AND ARE HEREBY AMENDED AS FOLLOWS:

Division 8. Residential Senior Market (R-SM) Program shall be renamed as Subdivision XXV. Residential Senior Market (R-SM)

Section 10B-360. Establishments shall be renumbered as Section 10B-272.74

Section 10B-361. Permitted uses shall be renumbered as Section 10B-272.75

Section 10B-362. Mandatory set-aside/comprehensive development shall be renumbered as Section 10B-272.76

Section 10B-363. Provisions applicable to moderate income units shall be renumbered as Section 10B-272.77

Section 10B-364. Residential cluster requirements for developments including moderate income housing in the R-SM district shall be renumbered as Section 10B-272.78

SECTION 4: ARTICLE XII. AFFORDABLE HOUSING, DIVISION 9, RESIDENTIAL SENIOR COMMUNITY ZONED 3 (RSC-3) OF THE TOWNSHIP CODE SHALL BE RELOCATED TO ARTICLE XI ZONING, DIVISION 2. ZONING DISTRICTS AND ARE HEREBY AMENDED AS FOLLOWS:

Division 9. Residential Senior Community Zoned 3 (RSC-3) shall be renamed as Subdivision XXVI. Residential Senior Community Zoned 3 (RSC-3)

Section 10B-365. Establishments shall be renumbered as Section 10B-272.79

Section 10B-366. Regulations shall be renumbered as Section 10B-272.80

Section 10B-362. Mandatory set-aside/comprehensive development shall be renumbered as Section 10B-272.81

Section 10B-363. Provisions applicable to moderate income units shall be renumbered as Section 10B-272.82

Section 10B-364. Residential cluster requirements for developments including moderate income housing in the R-SM district shall be renumbered as Section 10B-272.83

SECTION 5: CHAPTER 10B LAND USE, ARTICLE XII AFFORDABLE HOUSING AND ARTICLE XIIA MUNICIPAL HOUSING LIAISON OF THE TOWNSHIP CODE ARE HEREBY REPEALED AND REPLACED WITH THE APPLICABLE PROVISIONS BELOW:

Division 1. General

Section 10B-332 Purpose

1. This Ordinance sets forth regulations regarding the very low-, low-, and moderate-income housing units in the Municipality consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, *N.J.A.C. 5:93 et seq.*, the Uniform Housing Affordability Controls (“UHAC”), *N.J.A.C. 5:80-26.1 et seq.*, except where modified by the requirements for very low-income housing as established in P.L. 2008, c.46 (the “Roberts Bill,” codified at *N.J.S.A. 52:27D-329.1*) as reflected in the terms of a Settlement Agreement between the Municipality and Fair Share Housing Center (“FSHC”) such that the statutory requirement to provide very low-income units

equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Municipality's constitutional obligation to provide a fair share of affordable housing for very low-, low-, and moderate-income households.

2. This Ordinance is intended to assure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.
3. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.
4. The Municipal Council, to implement the goals and objectives of the Princeton Community Master Plan, has determined that an affordable housing program shall be established in the municipality in order to:
 - a. Provide housing opportunities for very low-, low-, and moderate-income families in order to meet the existing and anticipated housing needs of such persons, maintain a socio-economic mix in the community, provide a range of housing types dispersed throughout the community in a suitable living environment, and satisfy the community's obligation to provide a fair share of the region's housing needs;
 - b. Assure that the very low-, low-, and moderate-income units constructed under this program continue to remain available to very low-, low-, and moderate-income households through controls on rental and resale prices to be exercised by the Affordable Housing Board under the guidance of the Municipality's housing manager;
 - c. Provide for housing opportunities for those who work in Princeton and provide the community with essential services, but who cannot currently afford to live in the community; and
 - d. Provide that developments that create affordable housing demand within Princeton share in the burden of providing such affordable housing, including commercial and institutional developments.

Section 10B-333 Monitoring and Reporting Requirements

The Municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Plan Element and Fair Share Plan:

1. Beginning on the first anniversary of the final Judgment of Repose and on every anniversary of that date thereafter through July 1, 2025, the Municipality agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (“NJDCA”), Council on Affordable Housing (“COAH”), or Local Government Services (“NJLGS”), or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the NJDCA, COAH, or NJLGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. Beginning on the first anniversary of the final Judgment of Repose and on every anniversary thereafter of that date through July 1, 2025, the Municipality agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
3. By July 1, 2020, as required pursuant to *N.J.S.A. 52:27D-313*, the Municipality will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented.
4. By May 22, 2021, and every third year thereafter, as required by *N.J.S.A. 52:27D-329.1*, the Municipality will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements.

Section 10B-334 Definitions

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

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

Administrative agent. The entity designated by the Municipality to administer affordable units in accordance with this Ordinance, *N.J.A.C. 5:93*, and UHAC (*N.J.A.C. 5:80-26.1*).

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

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

Affordable. A sales price or rent level that is within the means of a low- or moderate-income household as defined within *N.J.A.C. 5:93-7.4*, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in *N.J.A.C. 5:80-26.6*, as 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 housing. Very low-, low- and moderate-income housing as defined by the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.1 et seq.* (Ord. No 2018-11 §2), with one exception to UHAC, pursuant to the 2008 amendments to the Fair Housing Act, P.L. 2008, c. 46 (codified as N.J.S.A. 52:27D-329.1), municipalities must provide very low-income units equal to 13% of all affordable units approved and constructed after July 17, 2008 at 30% of the regional median income instead of the UHAC standard of 10% at 35% of the regional median income.

Affordable housing development. A development included in or approved pursuant to the Housing Plan Element and Fair Share Plan or otherwise intended to address the Municipality's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

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

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

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

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

Alternative living arrangement. A building in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

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

COAH or the Council. The New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*) which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

DCA. The State of New Jersey Department of Community Affairs.

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

Development fee. Money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:93-8.8*.

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

Exempt sales. See *Non-exempt sales*.

Fair market value. The unrestricted price of a low- or moderate-income housing unit if sold at a current real estate market rate.

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

Inclusionary development. A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential building to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential building.

Intensity of use. Either: (a) an increase in residential density, i.e., the number of dwelling units per acre, (b) an increase in floor area ratio (FAR) for nonresidential development, or (c) conversion of an existing structure that uses the structure more intensely, and which results in an increase in the equalized assessed value of the improved structure, as demonstrated by, but not limited to: (1) an increase in employees, (2) an increase in customers, (3) an increase in visitors, (4) an increase in parking spaces, (5) an increase in hours of operation, or (6) a change of existing nonhabitable space to habitable space.

Judgment of repose. A judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.

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

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

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

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

Median income. The median income by household size for the applicable housing region, as adopted annually by the Municipality pursuant to this ordinance, by COAH or a successor entity approved by the Court.

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

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

Non-exempt sale. Any sale or transfer of ownership other than the transfer of ownership between spouses; 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.

Price differential. The difference between the controlled unit sales price and the fair market value as determined at the date of the proposed contract of sale, after reasonable real estate broker fees have been paid.

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

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

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

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

Repayment clause. The obligation of a seller exercising a repayment option to pay 95 percent of the price differential to a municipality at closing for use in the municipal housing plan.

Repayment option. The option of a seller of a low- or moderate-income unit to sell a unit pursuant to *N.J.A.C. 5:92-12.7* at fair market value subject to compliance with the terms of a repayment clause.

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

Set-aside. The percentage of housing units devoted to low- and moderate-income households within an inclusionary development. (Ord. No. 90-33, §1; Ord. No. 91-32, §1.)

Spending plan. A plan approved by the governing body of the Municipality as part of its housing element and fair share plan pursuant to *N.J.A.C. 5:93-8.2*, and approved by COAH or the Court.

Student housing. Nonprofit housing owned and operated by an accredited academic institution for full-time undergraduate and graduate students who are currently registered and enrolled in a degree-granting program at the same academic institution located within the Municipality of Princeton.

UHAC. The Uniform Housing Affordability Controls set forth in *N.J.A.C. 5:80-26.1*, *et seq.*

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

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

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

Section 10B-335 Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Municipality of Princeton pursuant to Princeton's most recently adopted Housing Plan Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units.
3. Projects receiving Federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC at *N.J.A.C. 5:80-26.3* (with the exception that the UHAC requirement for 10 percent of the affordable units in rental projects being required to be at 35 percent of median income be modified as required by the statutory requirement, *N.J.S.A. 52:27D-329.1* to 13 percent of affordable units in such projects shall be required to be at 30 percent of median income) and the length of the affordability controls applicable to such projects shall be not less than a thirty (30) year compliance period plus a 15 year extended use period.

Section 10B-336 Municipality-wide Mandatory Set-Aside

1. A multi-family development providing a minimum of five (5) new housing units at a density of six (6) or more units per acre, created through a municipal rezoning permitting multi-family residential housing where not previously permitted; a use variance; a density variance increasing the permissible density at the site; or a new or amended redevelopment plan or rehabilitation plan, is required to include in the development a minimum affordable housing set-aside of 20%, except as noted below:
 - a. This section shall not apply to student housing as defined in Article I, Section 10B-2, above.
 - b. This provision shall not apply to sites zoned for inclusionary residential development or for which an inclusionary residential redevelopment plan has been adopted consistent with the Municipality's Court-approved Housing Plan Element and Fair Share Plan adopted in accordance with the settlement agreement with Fair Share Housing Center, which sites shall comply with the applicable adopted zoning.
2. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. The developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. If the number of market-rate units permitted includes a fraction, the number shall be rounded down.
3. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very-low-income households.
4. All affordable units, including bedroom distribution thereof, shall be governed by the controls on affordability and affirmatively marketed in conformance with UHAC, *N.J.A.C. 5:80-26.1 et seq.*, or any successor regulation, and all other applicable law.

5. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units just below the threshold.
6. This requirement shall not give any developer the right to any such rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the Municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.
7. No developer may make a payment in lieu of constructing affordable units on site, except for fractional units as noted in Paragraph 2, above.
8. Affordable housing developed in accordance with this section within the boundaries of the former Borough of Princeton shall be credited to the unmet need obligation of the former Borough.
9. Affordable housing developed in accordance with this section within the boundaries of the former Township of Princeton shall be credited to the consolidated Municipality's prospective need for future affordable housing obligations in accordance with then-applicable law.

Section 10B-337 Resolution of Conflicting Provisions

Notwithstanding the provisions of any other ordinance to the contrary, the provisions of this article shall apply to developments containing affordable housing units. (Ord. No. 90-33, §I.)

Division 2. Affordable Housing Regulations

Section 10B-338 Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with *N.J.A.C. 5:93-5.8* and UHAC, with the following exceptions:
 - a. Affirmative marketing (*N.J.A.C. 5:80-26.15*), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - b. Affordability average and bedroom distribution (*N.J.A.C. 5:80-26.3*).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

Section 10B-339 Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

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

This schedule shall refer to the issuance of the certificates of occupancy by the municipal building officer.

Section 10B-340 New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.
 - b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low- or low-income units.
 - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

- iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
2. Accessibility Requirements:
- a. 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 the following:
 - b. 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:
 - i. An adaptable toilet and bathing facility on the first floor; and
 - ii. An adaptable kitchen on the first floor; and
 - iii. An interior accessible route of travel on the first floor; and
 - iv. 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
 - v. If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (*N.J.S.A. 52:27D-311a, et seq.*) and the Barrier Free SubCode, *N.J.A.C. 5:23-7*, or evidence that the Municipality has collected funds from the developer sufficient to make 10 percent 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 Municipality of Princeton's Affordable Housing Trust Fund

sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

3. The funds deposited under paragraph 6)b) above shall be used by the Municipality of Princeton for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
4. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Municipality for the conversion of adaptable to accessible entrances.
5. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, *N.J.A.C. 5:23-7*, and that the cost estimate of such conversion is reasonable, payment shall be made to the Municipality's Affordable Housing Trust Fund in care of the Municipality's Director of Finance, or their designee, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

- a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units, and not situated so as to be in less desirable locations than the other units in the development.
- b. In inclusionary developments, low- and moderate-income units shall be no less accessible to the common open space, public facilities, public transportation, and shopping facilities than the market units.

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein, as follows:

- i. Regional income units shall be established for the region that Princeton is located within (i.e. Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Princeton's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - ii. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to *N.J.A.C. 5:80-26.16(b)3* shall be calculated by Princeton annually by taking the percentage increase of the income limits calculated pursuant to paragraph (i) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
 - c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
 - d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income

ownership units must be available for at least two different sales prices for each bedroom type.

- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent 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.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under *N.J.A.C. 5:80-26.4*, as 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.

- i. 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 determined pursuant to the process outlined in paragraph (i) above. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed 9% in any one year. Rent increases for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

Section 10B-341 Utilities

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.
3. All applicable utilities shall be included in the calculation of initial rents.

Section 10B-342 Occupancy Standards

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

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

Division 3. Owner Occupied Unit Standards

Section 10B-343 Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.5*, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Princeton takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of *N.J.A.C. 5:80-26.1*, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. 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.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under *N.J.A.C. 5:80-26.5(a)*, as may be amended and supplemented.

Section 10B-344 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:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 10B-347.

Section 10B-345 Buyer Income Eligibility

1. 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.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Governing Body, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

Section 10B-346 Limitations on Indebtedness Secured by Ownership Unit; Subordination

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

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

Section 10B-347 Capital Improvements to Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

Division 4. Renter Occupied Unit Standards

Section 10B-348 Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with *N.J.A.C. 5:80-26.11*, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Princeton takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of *N.J.A.C. 5:80-26.1*, as may be amended and supplemented.
2. 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 Mercer. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

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

Section 10B-349 Rent Restrictions for Rental Units; Leases

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
2. 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.
3. 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.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

Section 10B-350 Tenant Income Eligibility

1. 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:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.

- c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to *N.J.A.C. 5:80-26.16*, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
 3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

Division 5. Administration

Section 10B-351 Affordable Housing Board

1. Purpose. The purpose of this subsection is to create an advisory board, the Affordable Housing Board of the Municipality of Princeton, to monitor the compliance of the municipality in providing housing for very low-, low-, and moderate-income families under its Mount Laurel obligation.
2. Membership; Terms of Office.
 - a. The Affordable Housing Board (hereinafter referred to as "Board") shall consist of seven voting members, and two alternate members, all of whom shall be

appointed by the Mayor with the advice and consent of council, providing, however, that:

- i. All members of the Affordable Housing Board shall be residents of Princeton during their tenure on said Affordable Housing Board unless the enabling legislation or ordinance creating said Affordable Housing Board permits non-residents to serve.
 - ii. The Mayor selects one Council liaison to the Affordable Housing Board each year with the advice and consent of Council. The Council member has full voting rights on the Affordable Housing Board.
 - iii. Persons employed by the municipality may not serve on the Affordable Housing Board unless so provided in the enabling legislation.
 - iv. Members are free to resign at any time.
 - v. All members of the Affordable Housing Board shall regularly attend the meetings of the Affordable Housing Board upon which they are serving. Failure to do so may lead to the member's removal. Any Affordable Housing Board member is entitled to request a public hearing to contest their removal.
- b. Attendance by four voting members shall constitute a quorum.
- c. The term of the member of the Municipal Council shall correspond to his or her official tenure. The terms of the remaining regular and alternate members shall be three years, computed from the first day of January of the year of appointment, provided that the terms of such members are staggered so that no more than two terms expire each year. If a vacancy occurs among such members, it shall be filled for the unexpired term only. Members shall serve after the expiration of their terms until their successors have been appointed and qualified.
- d. The Board shall elect a chairperson and a vice-chairperson from among its members. Their terms of office shall be one year, and they shall be eligible for re-election. The Board shall also elect a secretary, who may but need not be a member of the Board, and it may create and fill such other offices as it shall determine.
- e. All members shall serve without salary, but may be paid expenses incurred in the performance of duties. Expenses of and reimbursements for the Board will be included in appropriations made for the housing department. The Municipal Council may employ or assign at the request of the board such personnel of experts and other staff as the Board deems necessary, provided such obligations do not exceed the municipal budgetary allocation available to the Board for such use.

3. Vacancies; Removal for Cause. Any voting member of the Board who has been absent without excuse from three successive regular meetings shall be removed from office by the Mayor after notice and an opportunity to explain the absences.
4. Powers.
 - a. Review, with the assistance of the housing manager, regulations pertaining to the sale, rental, resale and re-renting of affordable housing units.
 - b. With the assistance of the housing manager, prepare recommendations for amendments and additions to regulations as it deems necessary or appropriate to implement the purpose of the affordable housing program.
 - c. With the assistance of the housing manager, make recommendations to the Municipal Council for approval of buyers of affordable housing units.
 - d. With the assistance of the housing manager, make recommendations to the Municipal Council regarding how municipal funds or housing trust funds should be spent and propose priorities for such expenditures.
 - e. Review all affirmative marketing plans for all housing in the affordable housing program.
 - f. Provide annual reports of all activity pursuant to the approved Settlement Agreement to the Municipal Council, courts, Fair Share Housing Center, and federal, state and local agencies as required.

Section 10B-352 Affordable Housing Utility

1. Pursuant to the “Local Budget Law”, N.J.S.A. 40A:4-1 et seq., an affordable housing utility is established in the Municipality of Princeton and the same shall be known and cited as the “Princeton Affordable Housing Utility”.
2. The affordable housing utility shall commence as of August 3, 1989 and the same shall be retroactive to that date.
3. The affordable housing utility budget shall set forth the appropriations in the form and detail prescribed by the regulations of the local governing body and may include:
 - a. Operations;
 - b. Interest and debt retirement, and
 - c. Deferred charges and statutory expenditures

4. The municipal officers and employees are directed and empowered to adopt accounting procedures consistent with this article and the aforesaid statutes in the creation of the affordable housing utility.
5. The affordable housing utility shall be governed by the governing body of the Municipality of Princeton.
6. All matters with respect to the operation and conduct of the affordable housing utility not determined by this article shall be determined by resolutions to be hereafter adopted.
7. Upon completion of the affordable housing units and the appropriate sales of those units, after all required debt service payments are made this utility will terminate.

Section 10B-353 Municipal Housing Liaison

1. Princeton shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Municipality's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with Princeton's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). The Municipality of Princeton shall adopt this Ordinance which creates the position of Municipal Housing Liaison and the Municipality of Princeton shall adopt a Resolution which appoints the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Municipality of Princeton, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as The Municipality of Princeton's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - b. Monitoring the status of all restricted units in the Municipality's Fair Share Plan;
 - c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
 - d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed;

- e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed; and
 - f. Maintaining and updating as needed the list of entities to be notified of the availability of affordable housing units in the Municipality pursuant to sections 10B-354.2.g. and 10B-355.9 below, which shall include all of the entities listed in said section together with any other entities deemed reasonably necessary or appropriate for the effective marketing of the availability of affordable housing units in the Municipality.
3. Subject to the approval of the Court, the Municipality shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Municipality in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program 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 Manual(s) shall be available for public inspection in the office of the Municipal Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

Section 10B-354 Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the Municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Municipality's Affirmative Marketing Plan 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;
 - f. Employing a random selection process as provided in the Municipality's Affirmative Marketing Plan when referring households for certification to affordable units; and
 - g. Notifying the following entities of the availability of affordable housing units in the Municipality: Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch chapters of the NAACP; Shiloh Baptist Church; the Supportive Housing Association; the New Jersey Housing Resource Center; and any other entities on the list maintained by the Municipal Housing Liaison pursuant to section 10B-353.2.f. above, as said list may be updated or modified from time to time.
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 Mercer County Register of Deeds or Mercer 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. Resales and Re-rentals:
 - 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 re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
5. Processing Requests from Unit Owners:
 - a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
 - 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 depreciated cost of central air conditioning systems;
 - c. Notifying the municipality of an owner's intent to sell a restricted unit; and
 - d. Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
 - a. Securing annually from the municipality a list of all for-sale 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. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

- 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; and
 - f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Governing Body and the Court, setting forth procedures for administering the affordability controls.
7. Records Retention
8. Additional Responsibilities:
- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
 - b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
 - c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

Section 10B-355 Affirmative Marketing Requirements

1. The Municipality shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, which is compliant with *N.J.A.C. 5:80-26.15*, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, gender identity and expression, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprising Mercer, Monmouth and Ocean counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low, low and moderate income veterans duly qualified under N.J.A.C. 54:4-8.10

may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Municipality prior to the affirmative marketing of the units.

4. The Municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Municipality shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. 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.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the county Administration Building and/or the county Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Municipality, and copies of the application forms, to the following entities: Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch chapters of the NAACP; Shiloh Baptist Church; the Supportive Housing Association; the New Jersey Housing Resource Center; and any other entities on the list maintained by the Municipal Housing Liaison pursuant to section 10B-353.2.f. above, as said list may be updated or modified from time to time.
10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

Section 10B-356 Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an 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, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. 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(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The Municipality may file a court action pursuant to *N.J.S.A. 2A:58-11* alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Municipality's affordable housing trust fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - i. The 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 his right to possession terminated as well as his title conveyed pursuant to the sheriff's sale.

- ii. 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 the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, 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.
- iii. 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.
- iv. 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.
- v. 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.

- vi. 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.

Section 10B-357 Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing as an action in lieu of prerogative writ in the Superior Court, Law Division in the County with jurisdiction over the Municipality's affordable housing proceedings, or in such other manner as the Superior Court may direct.

Division 6. Development Fees

Section 10B-358 Purpose

1. 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 COAH's adoption of rules.
2. COAH was authorized by P.L. 2008, c. 46, Section 8 (*N.J.S.A. 52:27D-329.2*), and the Statewide Nonresidential Development Fee Act (*N.J.S.A. 40:55D-8.1 through 40:55D-8.7*) 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 COAH or a court of competent jurisdiction and have a COAH- or court-approved spending plan may retain fees collected from nonresidential development.
3. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the "Mount Laurel IV" decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
4. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at *N.J.A.C. 5:93-8*.

Section 10B-359 Basic Requirements

1. COAH had previously approved ordinances which established both the former Township's and former Borough's affordable housing trust funds. The Municipality's development fee ordinance, which has been further amended, remains effective pursuant to the Superior Court's jurisdiction in accordance with *N.J.A.C. 5:93.8*.
2. At such time that the Court approves the Municipality's Third Round Housing Plan Element and Fair Share Plan and the Third Round Spending Plan, Princeton may begin spending development fees in conformance with *N.J.A.C. 5:93-8* for the new 2020 Plan activities.

Section 10B-360 Residential Development Fees

1. Imposed fees.
 - a. Within all Zoning Districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
 - b. When an increase in residential density pursuant to *N.J.S.A. 40:55D-70d(5)* (known as a density variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage 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.
2. Eligible exactions, ineligible exactions and exemptions for residential development.
 - a. 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 for a fractional of an affordable housing unit less than 0.5 shall be exempt from development fees.
 - b. 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.

- c. Owner-occupied residential buildings demolished as a result of a fire, flood, or natural disaster and replaced with a substantially similar residence shall be exempt from paying a development fee. If the new owner-occupied residential building is not substantially similar to the prior, demolished building, then the owner shall pay a development fee based on the net increase in equalized assessed value.
- d. Residential development of student housing, as defined in Article I, Section 10B-2, shall be exempt from paying development fees. Examples of this type of construction would be dormitories and other types of student housing.
- e. In addition to the construction of new principal and/or accessory buildings, development fees shall be imposed and collected for the construction of additions or expansions to existing buildings, and/or for the change or conversion of an existing building to accommodate a more intense use, and/or for the demolition and replacement of an existing building except as a result of a natural disaster as covered under subsection c., above, provided that the development fee shall be calculated on the increase in the equalized assessed value of the improved building.

Section 10B-361 Nonresidential Development Fees

1. Imposed fees.
 - a. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
 - b. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing buildings to be used for nonresidential purposes.
 - c. Development fees shall be imposed and collected when an existing building is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved building, 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 nonresidential development fee shall be zero.

2. Eligible exactions, ineligible exactions and exemptions for nonresidential development.
 - a. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent (2.5%) development fee, unless otherwise exempted below.
 - b. The two-and-one-half-percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - c. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
 - e. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Municipality as a lien against the real property of the owner.

Section 10B-362 Collection Procedures

1. 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.
2. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption," to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

3. 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.
4. Within 90 days of receipt of that notice, the tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Municipality of Princeton fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (*N.J.S.A. 40:55D-8.6*).
8. Fifty percent (50%) 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.
9. Appeal of development fees.
 - a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Municipality of Princeton. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, *N.J.S.A. 54:48-1 et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Municipality of Princeton. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, *N.J.S.A. 54:48-1 et seq.*, within 90 days after the

date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

Section 10B-363 Affordable Housing Trust Fund

1. There is hereby created a separate, interest-bearing affordable housing trust fund, to be maintained by the Director of Finance, or their designee, for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
 - a. Payments in lieu of on-site construction of affordable units;
 - b. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - c. Rental income from municipally operated units;
 - d. Repayments from affordable housing program loans;
 - e. Recapture funds;
 - f. Proceeds from the sale of affordable units; and
 - g. Any other funds collected in connection with the Municipality of Princeton's affordable housing program.
3. The Borough of Princeton and the Township of Princeton previously provided COAH with written authorization, in the form of three-party escrow agreements between the municipality, Bank of Princeton, and COAH, to permit COAH to direct the disbursement of the funds as provided for in *N.J.A.C. 5:93-8*. The Superior Court shall now have such jurisdiction to direct the disbursement of the Municipality's trust funds per *N.J.A.C. 5:93-8*.
4. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

Section 10B-364 Use of Funds

1. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Municipality's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability

controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Plan Element and Fair Share Plan, or any other activity as permitted pursuant to *N.J.A.C. 5:93-8.16* and specified in the approved spending plan.

2. Funds shall not be expended to reimburse the Municipality of Princeton for past housing activities.
3. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - a. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs.
 - b. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - c. 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.
4. The Municipality of Princeton may contract with a private or public entity to administer any part of its Housing Plan Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with *N.J.A.C. 5:93-8.16*.
5. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Plan Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set

forth in the Court-approved December 8, 2018 executed Settlement Agreement with Fair Share Housing Center. 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.

Section 10B-365 Monitoring

On the anniversary of the final Judgment of Repose each year through 2025, the Municipality of Princeton shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or NJLGS. This reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

Section 10B-366 Ongoing Collection of Fees

The ability of the Municipality of Princeton to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless the Municipality has filed an adopted Housing Plan Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment Action, and has received the Court's approval of its development fee ordinance. If the Municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, 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 (N.J.S.A. 52:27D-320). The Municipality shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment Compliance and Repose, nor shall the Municipality impose a development fee retroactively on such a development. The Municipality shall not expend development fees after the expiration of its Judgment Compliance and Repose.

Section 10B-367 through Section 10B-372 Reserved

SECTION 6: A COPY OF THIS ORDINANCE SHALL BE REFERRED TO THE PRINCETON PLANNING BOARD FOLLOWING ITS INTRODUCTION FOR REVIEW PURSUANT TO N.J.S.A. 40A:55D-26A.

SECTION 7: ANY ARTICLE, SECTION, PARAGRAPH, SUBSECTION, CLAUSE, OR OTHER PROVISION OF THE CODE OF THE TOWNSHIP OF PRINCETON AND THE CODE OF BOROUGH OF PRINCETON INCONSISTENT WITH THE PROVISIONS OF THIS ORDINANCE IS HEREBY REPEALED TO THE EXTENT OF SUCH INCONSISTENCY.

SECTION 8: IF ANY SECTION, PARAGRAPH, SUBSECTION, CLAUSE, OR PROVISION OF THIS ORDINANCE SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH ADJUDICATION SHALL APPLY ONLY TO THE SECTION, PARAGRAPH, SUBSECTION, CLAUSE, OR PROVISION SO ADJUDGED, AND THE REMAINDER OF THIS ORDINANCE SHALL BE DEEMED VALID AND EFFECTIVE.

SECTION 9: THIS ORDINANCE SHALL TAKE EFFECT UPON ITS PASSAGE AND PUBLICATION, FILING WITH THE MERCER COUNTY PLANNING BOARD, AND AS OTHERWISE PROVIDED FOR BY LAW.

SECTION 10. THE PROVISIONS OF THIS ORDINANCE SHALL BE APPLICABLE WITHIN THE ENTIRE MUNICIPALITY OF PRINCETON UPON FINAL ADOPTION AND SHALL BECOME A PART OF THE NEW PRINCETON CODE ONCE COMPLETED AND ADOPTED.

Delores A. Williams, RMC, Clerk

Hon. Liz Lempert, Mayor

Ordinance Introduced: June 15, 2020
Reviewed by Planning Board: June 18, 2020
Ordinance Adopted: June 29, 2020

NEWSPAPER PUBLICATIONS:

First Insertion: June 19, 2020
Final Insertion: July 3, 2020