CITY OF ABSECON

ATLANTIC COUNTY, NEW JERSEY

Housing Element & Fair Share Plan

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The original of this document was signed and sealed in accordance with N.J.A.C. 13:41-1.3 (b) and is on file with the City of Absecon Planning Board.

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Executive Summary:

As Absecon continues to satisfy its affordable housing obligations, this Fourth Round Housing Element and Fair Share Plan provides a housing policy framework with a variety of options to provide affordable housing opportunities.

Through this Fourth Round Housing Element and Fair Share Plan, the City promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the City's existing housing stock, and formally acknowledges its continuing constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of very-low, low, and moderate income.

The Fourth Round Housing Element and Fair Share Plan continues to rely on the existing Train Station Overlay District zoning, which ensures that affordable housing is constructed in already developed areas in close proximity to multi-modal transportation options. The Plan includes allowing accessory apartments, limited to ten (10) units in the City and includes a new age-restricted veteran's supportive housing development.

This Fourth Round Housing Element and Fair Share Plan, once adopted, will be submitted to the Affordable Housing Dispute Resolution Program ("Program").

Introduction:

The City has prepared a Fourth Round Housing Element and Fair Share Plan in accordance with the requirements set forth in the "Municipal Land Use Law" (N.J.S.A. 40:55D-28) ("MLUL"), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) ("FHA"),m as amended by P.L. 2024 c.2, Administrative Directive #14-24, the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et. seq.), and the rules of the now-abolished New Jersey Council on Affordable Housing (N.J.A.C.5:93 et seq.) ("COAH"). This plan is an update to the 2018 Amended Third Round Housing Element and Fair Share Plan, adopted by the Planning Board on October 10, 2018, and endorsed by City Council on October 18, 2018. Pursuant to the Amended FHA, this 2025 Fourth Round Housing Element and Fair Share Plan will be filed with the Program within 48 hours of the Planning Board's adoption.

New Jersey affordable housing law began with the New Jersey Supreme Court's (hereinafter the "Supreme Court") creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as "Mount Laurel I." In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there", including those of low and moderate income. Thus, the Supreme Court in Mount Laurel I decision ruled that municipalities should not use their zoning powers to prevent the potential for the development of affordable housing. Displeased with progress under its earlier decision, in 1983, the Supreme Court decided So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or "Mount Laurel

II". Because the Legislature had not yet acted to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial remedy, now commonly referred to as a "Builder's Remedy". That remedy created a special process by which builders could file suit against a municipality for the opportunity to construct housing at much higher densities than a municipality otherwise would allow, creating affordable housing in the process. In essence, Builder's Remedy lawsuits seek to force municipalities to meet their affordable housing obligations.

Responding to the chaos created by the implementation of the Supreme Court's Mount Laurel decisions and the many Builder's Remedy lawsuits that followed, the State Legislature passed the Fair Housing Act (hereinafter "FHA") in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or "Mount Laurel III"), which created the Council on Affordable Housing ("COAH') and authorized municipal Housing Elements and Fair Share Plan to be approved by COAH via the granting of Substantive Certification, which would protect municipalities from builder's remedy lawsuits.

To implement the FHA requirements, COAH adopted a series of regulations. Round One regulations were enacted in 1987. Round 2 regulations were adopted by COAH in 1994. Round 3 regulations were supposed to be adopted in 1999 when the Round 2 rules were set to expire, but the first iteration of Round 3 regulations were not adopted by COAH until 2004. After those regulations were invalidated by the courts, COAH adopted a second iteration of Round 3 regulations in 2008. The second iteration of regulations were also invalidated by the Courts, and after COAH failed to adopt a third iteration of Round 3 regulations in 2014, the Supreme Court issued In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), in which it directed trial courts to assume COAH's functions and ruled that municipalities would have to get their Third Round Housing Elements and Fair Share Plans approved in the courts via the granting a Judgment of Compliance and Repose (JOR), rather than getting the plans approved by COAH.

On March 20, 2024, this all changed once again when Governor Murphy signed into law, P.L. 2024, C.2, which substantially amended the FHA and created an entirely new affordable housing plan approval process. The amended FHA abolished COAH, and introduced a comprehensive structure for municipalities to meet their obligations before a new entity known as the Affordable Housing Dispute Resolution Program (hereinafter the "Program"), which consists of retired Mount Laurel judges and their Special Adjudicators, once known as Court Masters. The Program was created to approve Fourth Round Housing Elements and Fair Share Plans, along with the underlying local trial Court, and help municipalities mediate with objectors regarding their Fourth Round affordable housing obligations and the approval of the plans. The amended FHA also required the Department of Community Affairs (DCA) to take over the monitoring of affordable units in every municipality in the state, and to draft and release a report calculating non-binding Fourth Round municipal Present and Prospective Need obligation for every municipality in the state. The DCA released its Fourth Round numbers report in October of 2024. The amended FHA also ordered the New Jersey Housing and Mortgage Finance Agency

(NJHMFA) to adopt new UHAC regulations. The amended FHA also changed the way municipalities receive bonus credits amongst other things.

In response to the requirements of the amended FHA, the City of Absecon adopted a resolution on January 16, 2025 committing to a Fourth Round Present Need Obligation of 39 and a Fourth Round Prospective Need Obligation of 22. See Appendix A. The City filed a Declaratory Judgment Complaint on January 18, 2025 with the Program and the Court, along with the City's Fourth Round numbers resolution. See Appendix A.

The Court entered an Order on March 27, 2025 setting the City's Fourth Round Present Need Obligation at 39 and the City's Fourth Round Prospective Need Obligation at 22. See Appendix B.

Housing Element:

Pursuant to both the FHA and the MLUL, municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations.

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);

f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);

h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Demographic Characteristics

As indicated above, the MLUL requires an analysis of housing and demographic data as part of any Housing Element. The 2020 Census and the 2023 US Census population estimates are the most recent available comprehensive database of this type of information for Absecon

Table 1 below provides a comparison of population change in Absecon, Atlantic County, and the State of New Jersey.

Table 1
City of Absecon, Atlantic County and New Jersey
Population Changes: 1940-2023

	City of Absecon		Atlantic County		New Jersey	
Year	Number	Change	Number	Change	Number	Change
1940	2,084	-------	124,066	-------	4,160,165	------
1950	2,355	13.0%	132,399	6.7%	4,835,329	16.2%
1960	4,320	83.4%	160,880	21.5%	6,066,782	25.5%
1970	6,094	41.1%	175,043	8.8%	7,168,164	18.7%
1980	6,859	12.6%	194,119	10.9%	7,365,011	2.7%
1990	7,298	6.4%	224,327	15.6%	7,730,188	5.0%
2000	7,638	4.7%	252,552	12.6%	8,414,350	8.9%
2010	8,411	10.1%	274,549	8.7%	8,791,894	3.2%
2020	9,137	8.6%	274,534	- < 0.0%	9,288,994	5.7%
2023	9,099	-0.4%	275,213	0.2%	9,290,841	< 0.0%

Source: US Census Bureau, Population Estimates Program
2020 Census Data
U.S. Census Bureau

The age distribution within Absecon indicates a slightly younger population than both Atlantic County and the State. This can be attributed to the large increase in single family dwellings that have been constructed in the City that are occupied by younger families. Approximately 35.4% of the population was over 55 years of age in 2023. The distribution of ages of persons in the City is indicated in Table 2.

Table 2
City of Absecon
Population by Age Group: 2000-2023

	2000		2010		2020		2023	
	Number	**Percent**	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
Total Population	7,638	100%	8,411	100%	9,137	100%	9,099	100%
Sex	------	------	------	------	------	------	------	------
- Male	3,660	47.9%	4,036	48.0%	4,402	48.2%	4,548	50.0%
-Female	3,978	52.1%	4,375	52.0%	4,735	51.8%	4,551	50.0%
Age	------	------	------	------	------	------	------	------
Under 5	460	6.0%	465	5.5%	422	4.6%	694	7.6%
5-9 Years	543	7.1%	506	6.0%	470	5.1%	742	8.2%
10-14 Years	519	6.8%	493	5.9%	509	5.6%	403	4.4%
15-19 Years	387	5.1%	465	5.5%	491	5.4%	379	4.2%
20-24 Years	321	4.2%	429	5.1%	506	5.6%	376	4.1%
25-34 Years	896	11.7%	882	10.5%	1,106	12.1%	1,555	17.1%
35-44 Years	1,365	17.9%	1,066	12.7%	1,024	11.2%	1,098	12.1%
45-54 Years	1,178	15.4%	1,425	16.9%	1,081	11.8%	629	6.9%
55-59 Years	354	4.6%	632	7.5%	739	8.1%	740	8.1%
60-64 Years	384	5.0%	617	7.3%	793	8.7%	846	9.3%
65-74 Years	648	8.5%	729	8.7%	1,194	13.1%	879	9.7%
75-84 Years	418	5.5%	495	5.9%	560	6.1%	604	6.6%
85+ Years	165	2.2%	207	2.5%	242	2.6%	154	1.7%

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Non-family households make up 34.9% of the households in Absecon. This is slightly lower than the County rate of 35.1%, but higher than the State average of 32.2%. In 2023, the average household size in Absecon is 2.51 persons/dwelling unit, while the County average is 2.47 and the State average is 2.47, making the average household in Absecon slightly larger than that of the County and State.

Education:

Within Absecon's adult population (25 and over) 95.1% have received a high school diploma and 30.8% received a bachelor's degree or higher giving the City a higher percentage of high-school graduate adults, but a slightly lower percentage who have a bachelor's degree. When compared to the County, 88.9% of the adult population has received a high school diploma and 31.2% of the adult population has received a bachelor's degree or higher.

Age of Housing:

Table 3 depicts the number of new housing units constructed between 2000 and 2020 for the City, County, and State.

Table 3
City of Absecon, Atlantic County and New Jersey
Housing Units: 2000, 2010 & 2020

Jurisdiction	Housing Units 2000	Housing Units 2010	Housing Units 2020	Increase	% Increase from 2000-2020
City of Absecon	2,902	3,365	3,888	986	34.0%
Atlantic County	114,090	126,647	132,038	17,948	15.7%
New Jersey	3,310,275	3,553,562	3,761,229	450,954	13.6%

Source: 2020 Census Data
2010 Census Data
2000 Census Data

As of 2023, approximately 53.9% of the City's current housing stock was constructed prior to 1980, with 14.6% constructed prior to 1940. The City therefore has what can be considered a housing stock of average age. This includes a fair number of older homes, and homes built in recent years as the population has increased. The age of housing stock can be used as a gauge of the overall condition of housing in the community. In the case of the City of Absecon a large percentage of homes have been constructed in recent years, and many of them have not endured the "wear and tear" that typically takes place over years. However, in the case of Absecon's older homes some of them may have had endure that "wear and tear" from being subjected to these conditions over the years.

Housing Tenure:

The 2020 Census data indicates that 3,614 housing units (93.0%) in the City were occupied, and 274 units (7%) were vacant. A total of 2,659 units (73.6%) of the occupied units are owner occupied with the additional 955 units (26.4%) occupied by renters.

Table 4
City of Absecon
Housing Tenure: 2000, 2010 & 2020

City of Absecon	2000 Units	2000 % of Total	2010 Units	2010 % of Total	2020 Units	2020 % of Total
Total Housing Units	2,902	100%	3,365	100%	3,888	100%
Occupied Housing Units						
-Owner Occupied	2,371	81.7%	2,709	80.5%	2,659	68.4%
-Renter Occupied	402	13.9%	470	14.0%	9,55	24.6%
-Total	2,773	95.6%	3,179	94.5%	3,614	93.0%
Vacant Housing Units	129	4.4%	186	5.5%	274	7.0%
Seasonal, Recreational Use	26	0.9%	46	1.4%	35	0.9%
Rental Vacancy Rate	5.0%	------	11.0%	------	11.0%	------
Household Size						
-Owner Occupied	2.70	------	2.59	------	2.66	------
-Renter Occupied	2.65	------	2.65	------	2.77	------

Source: 2020 Census Data
2010 Census Data
2000 Census Data

Physical Character of the City Housing Stock

Table 5 provides an inventory of the age of the housing stock in the City of Absecon.

Table 5
City of Absecon
Inventory of Housing Age: 2023

Year(s) Constructed	Number	Percent of Total
2020 or later	198	5.3%
2010-2019	281	7.5%
2000-2009	579	15.4%
1990-1999	239	6.4%
1980-1989	435	11.6%
1970-1979	235	6.3%
1960-1969	439	11.7%
1950-1959	491	13.1%
1940-1949	314	8.4%
1939 or earlier	548	14.6%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

In 2023, the median value of the owner-occupied units in the City of Absecon was $237,600. The median home value has increased since the release of the 2020 Census, which was $192,900. The City of Absecon average median home value is about 21.8% less than that of Atlantic County, and it is significantly less than the average in New Jersey.

Table 6
City of Absecon, Atlantic County and New Jersey
Median Home Values: 2000, 2010, 2020 & 2023

Median Home Value	2000	2010	2020	2023	Percent Increase 2020-2023
City of Absecon	$123,000	$259,500	$192,900	$237,600	23.2%
Atlantic County	$122,000	$264,400	$222,600	$303,800	36.5%
New Jersey	$170,800	$357,000	$355,700	$427,600	20.2%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

As noted in Table 7 the majority of owner-occupied units are valued at less than $500,000. Of the 2,613 owner occupied units reported in the 2023 American Community Survey, 96.1% were valued at less than $500,000.

Table 7
City of Absecon
Home Value of Specified Owner-Occupied Units: 2023

Value of Specified Owner Occupied Units	Number of Units	Percent of Total
Less than $50,000	65	2.5%
$50,000- $99,999	65	2.5%
$100,000- $149,999	154	5.9%
$150,000- $199,999	505	19.3%
$200,000- $299,999	1,119	42.8%
$300,000- $499,999	602	23.0%
$500,000- $999,999	75	2.9%
Over $1,000,000	28	1.1%

Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data

As noted in Table 8, the majority of the gross rents charged were less than $2,500 per month. Of the 908 rental units reported in the 2023 American Community Survey, 92.5% of the units were rented at less than $2,500.

Table 8
City of Absecon
Gross Rent of Specified Renter Occupied Units: 2023

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than $500.00	0	0%
$500.00-$999.00	18	2.0%
$1,000.00-$1,499.00	195	21.5%
$1,500.00-$1,999.00	384	42.3%
$2,000.00-$2,499.00	243	26.8%
$2,500.00-$2,999.00	59	6.5%
$3,000 or more	9	1.0%
No cash rent	38	------

Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data

The median gross rent in Absecon was $1,814.00 in 2023. The median rent is higher than that of the Atlantic County and New Jersey averages.

Table 9
City of Absecon, Atlantic County and New Jersey
Median Rents: 2000, 2010, 2020 & 2023

Median Rent	2000	2010	2020	2023	% Change 2020-2023
Absecon	$792.00	$1,175.00	$1,471.00	$1,814.00	27.0%
Atlantic County	$677.00	$955.00	$1,129.00	$1,325.00	17.4%
New Jersey	$751.00	$1,092.00	$1,368.00	$1,667.00	21.9%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Single family detached homes remain the dominant housing structure in Absecon, representing 69.2% of total housing units. In addition, mobile homes account for 0.3% of the housing structures in the City. Even though mobile homes are not deed restricted for affordable housing, they often help provide more affordable housing. This is not the case in the City, due to the lack of mobile homes. The rent prices in Absecon are much higher in relation to the cost of owning a home when comparing it to the County and State averages.

Table 10
City of Absecon
Types of Dwelling Units: 2023

Type of Unit	Number of Units	Percent of Total
1- Unit; detached	2,601	69.2%
1- Unit; attached	390	10.4%
2 Units	79	2.1%
3 or 4 Units	75	2.0%
5 to 9 Units	59	1.6%
10 to 19 Units	180	4.8%
20 or more Units	363	9.7%
Mobile Homes	12	0.3%
Boat, RV, Van, etc.	0	0%
Total	**3,759**	**100%**

Source: US Census Bureau
2023 American Community Survey 5-Year Estimates

Table 11 provides Census data regarding the condition of housing and whether units are overcrowded:

Table 11
City of Absecon
Condition of Housing: 2023

Characteristic	Number of Units
Overcrowded (> 1 person per room)	78
Total Units lacking complete plumbing	0
Total Units lacking complete kitchen	0

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

According to the 2023 American Community Survey, the 2023 median household income in the City of Absecon was $77,516. Additionally, 8.7% of the City's population identified as living below the poverty level.

Units Affordable to Low- and Moderate-Income Households

Units are affordable to low and moderate-income households if the maximum sales price or rent is set within a specified formula as per UHAC regulations. A moderate-income household is a household whose gross family income is more than fifty percent (50%) of the median income, but less than eight percent (80%) of median income for households of the same size within the housing region. A low-income household is a household whose gross family income is equal to or less than fifty percent (50%) of median gross household income for a household and a very-low-income household is classified as earning less than thirty percent (30%) of the median area income of the same size within the housing region for the City of Absecon. Absecon is in Region 6, which encompasses Atlantic, Cape May,

Cumberland and Salem counties. The median household income in the City of Absecon in 2023 was $77,516.

Table 12
2024 Affordable Housing Regional Income Limits
By Household Size Region 6

	1 Person	1.5 Person	2 Person	3 Person	4 Person
Median	$68,852	$73,770	$78,688	$88,524	$98,360
Moderate	$55,081	$59,016	$62,950	$70,819	$78,688
Low	$34,426	$36,885	$39,344	$44,262	$49,180
Very Low	$20,655	$22,131	$23,606	$26,557	$29,508

	4.5 Person	5 Person	6 Person	7 Person	8 Person
Median	$102,294	$106,228	$114,097	$121,966	$129,835
Moderate	$81,835	$84,983	$91,278	$97,573	$103,868
Low	$51,147	$53,114	$57,049	$60,983	$64,917
Very Low	$30,688	$31,868	$34,229	$36,590	$38,950

Source: AHPNJ, April 12, 2024

Based on the qualifying formula in N.J.A.C. 5:80-26, the monthly cost of shelter, which includes mortgage (principal and interest), taxes, insurance and homeowners or condominium association fees, may not exceed twenty-eight percent (28%) of gross monthly household income based on a five percent (5%) down payment. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices. The maximum sales prices must now be affordable for households earning no more than seventy percent (70%) of median income. The sales prices must average fifty-five percent (55%) of median income.

Under UHAC regulations, rents including utilities may not exceed thirty percent (30%) of gross monthly income. The average rent must now be affordable for households earning fifty-two percent (52%) of median income. The maximum rents must be affordable for households earning no more than sixty percent (60%) of median income. In averaging fifty-two percent (52%), one rent may be established for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The utility allowance must be consistent with the utility allowance approved by HUD and utilized in New Jersey. In addition, thirteen percent (13%) of all restricted rental units must be affordable to households earning no more than thirty percent (30%) of median income.

Based upon the average household size of 2.51 in Absecon City in 2023 and the regional limits, the median income in Region 6 for the City of Absecon in 2023 is $77,516. At a minimum, 267 owner occupied units and 213 renter occupied units could be considered affordable to three-person very-low-, low- and moderate-income households as indicated

in Table 13. Of the 267 owner occupied units, 72 units could be considered affordable to a three-person very-low-income household or three-person low-income household and 195 units could be considered affordable to a three-person low-income household or three-person moderate income household. There are also 685 owner occupied units that fall somewhere between moderate income three-person households and unaffordable. Of the 213 renter occupied units, 18 units could be considered affordable to a three-person very-low-income or low-income household and 195 units could be considered affordable to a three-person low-income or moderate-income household. 384 renter occupied units also fall between moderate-income and unaffordable. Based upon these numbers a minimum of approximately 12.8% of the 3,759 total housing units in the City in 2023 are potentially affordable. Of these, a minimum of 90 units representing approximately 2.4% could be affordable to very low- and low-income households with the remaining 390 units representing approximately 10.4% could be affordable to low-income and moderate-income households. Although these figures are estimates using assumptions on household size, it appears that the City of Absecon has a small number of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits. Even when factoring in the number of houses that fall in the moderate-income-unaffordable range and houses without rent/mortgages, there is a very high percentage of unaffordable houses in Absecon.

Table 13
City of Absecon
Estimate of 2023 Housing Units Affordable to Low & Moderate Income Households
Information for Median Income, Mortgage and Rental Information

Income Level	Annual Income	
Median Household Income	$88,528	
Moderate Income	$44,264 - $70,822	
Low Income	$26,558 - $44,264	
Very Low Income	< $26,558	
Income Level	**Affordable Monthly Rent**	**Affordable Monthly Mortgage**
Moderate Income	$1,106.60 - $1,770.55	$1,032.83 - $1,652.51
Low Income	$663.95 - $1,106.60	$619.69 - $1,032.83
Very Low Income	< $663.95	< $619.69
Mortgage Status and Selected Owner Costs	**Number of Units**	**Affordability**
Owner Occupied Units with a Mortgage	1,729	
Less than $500.00	0	Very Low Income
$500.00-$999.00	72	Very-Low Income – Low Income
$1,000.00-$1,499.00	195	Low Income – Moderate Income
$1,500.00-$1,999.00	685	Moderate Income – Not Affordable
$2,000.00-$2,499.00	342	Not Affordable
$2,500.00-$2,999.00	223	Not Affordable
$3,000.00 or more	212	Not Affordable
Not Mortgaged	884	N/A
Renter Occupied Housing Units	908	**Affordability**
Less than $500.00	0	Very Low Income
$500.00-$999.00	18	Very Low Income – Low Income
$1,000.00-$1,499.00	195	Low Income – Moderate Income
$1,500.00-$1,999.00	384	Moderate Income – Not Affordable
$2,000.00-$2,499.00	243	Not Affordable
$2,500.00-$2,999.00	59	Not Affordable
$3,000.00 or more	9	Not Affordable
No Rent Paid	38	Not Applicable

Source: 2020 Census Data
2023 American Community Survey 5-Year Estimates
AHPNJ, April 12, 2024

Housing Stock, Population & Employment Projections

According to the New Jersey Department of Labor, Residential Building Permits Issued, 567 new building permits were issued in the City of Absecon from 2013 through 2022.

Housing Unit Projections

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Table 14 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 220 new units were certified, and 8 units were demolished. There is an annual average of 20 Certificates of Occupancy issued per year, and one demolition per year. This means that an average of 19 new net dwellings occurred per year over this time frame. If this rate were to remain relatively constant, the City could see a net increase of 190 more units in the next 10 years. It is worth noting that in 2018, 205 of the 212 net dwellings were established, meaning this year could be an outlier for future years.

Table 14
City of Absecon
Residential Construction Certificate of Occupancy
and Demolition Permits Issued: 2013-2023

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	1	0	1
2014	1	0	1
2015	1	1	0
2016	0	1	-1
2017	1	0	1
2018	207	2	205
2019	0	1	-1
2020	3	1	2
2021	1	1	0
2022	2	1	1
2023	3	0	3
Total	**220**	**8**	**212**
Annual Average	20	1	19

Source: New Jersey Department of Community Affairs, Division of Codes & Standards, Construction Reporter

Analysis of Existing Employment:

The 2023 American Community Survey data indicates that the civilian labor force (16 years and older) for the City of Absecon and Atlantic County in 2023 were 4,615 and 144,112 respectfully. The Absecon civilian labor force represents 3.2% of the County civilian labor force. In 2023, the percent of the persons age 16 and over in the civilian

labor force in the City of Absecon was 64.0%. This average is similar to the County average of 64.1%. The City had an unemployment rate that fell right in line with the County as well, as rates were 4.2% (300 persons) and 4.1% (9,185 persons) respectfully.

The Census data distribution of occupational positions in the City of Absecon generally reflects that of Atlantic County and the State. The largest difference, at the State level, comes in the service occupations. Approximately 27.9% of Absecon's labor force works in service occupations compared to 15.5% of the State. This is primarily due to the close nature of casino industry as well as the tourist industry in Atlantic County.

Table 15
City of Absecon and Atlantic County
Civilian Labor Force Characteristics: 2023

	City of Absecon		Atlantic County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	4,615	64.0%	144,112	64.1%
Employed	4,315	59.8%	134,927	60.1%
Unemployed	300	4.2%	9,185	4.1%

Source: US Census, 2023 American Community Survey 5-Year Estimates

Table 16
City of Absecon, Atlantic County and New Jersey
Occupation Distribution: 2023

Occupation	City of Absecon	Atlantic County	New Jersey
Management, business, science and arts occupations	40.3%	38.6%	47.4%
Service Occupations	27.9%	27.0%	15.5%
Sales and Office Occupations	18.3%	16.8%	19.0%
Natural resources, construction and maintenance occupations	3.5%	7.5%	6.9%
Production, transportation and material moving occupations	10.1%	10.1%	11.2%

Source: US Census, 2023 American Community Survey 5-Year Estimates

In 2023, the median household income in Absecon was $77,516. However, there is a wide range of income levels, as 38.0% of households make over $100,000 and 8% make under $25,000. The distribution of household income is indicated in Table 17.

Table 17
City of Absecon
Household Income: 2023

Household Income	Number	Percent
Less than $10,000	110	3.1%
$10,000- $14,999	64	1.8%
$15,000- $24,999	182	5.1%
$25,000- $34,999	256	7.2%
$35,000-$49,999	260	7.3%
$50,000- $74,999	861	24.2%
$75,000- $99,999	470	13.2%
$100,000- $149,999	879	24.7%
$150,000 or more	473	13.3%

Source: US Census, 2023 American Community Survey 5-Year Estimates

As mentioned in the 'Analysis of Existing Employment' section, data from the 2023 American Community Survey data indicates a civilian labor force (those in the population above the age of 16) of 4,767, of which 4,315 were employed. Classifications of workers by occupation distribution can be referenced in Table 18 which lists occupation by industry of workers in the City.

Table 18
City of Absecon
Employment Classification: 2023

Industry	Number of Employees	% of Total Employed
Agriculture, forestry, fishing, hunting and mining	0	0%
Construction	101	2.3%
Manufacturing	143	3.3%
Wholesale Trade	13	0.3%
Retail Trade	473	11.0%
Transportation, warehousing and utilities	481	11.1%
Information	82	1.9%
Finance, Insurance, Real Estate and Rental/ Leasing	172	4.0%
Professional, scientific, management, administrative and waste management services	421	9.8%
Educational services, health care and social assistance	1,252	29.0%
Arts entertainment, recreation, accommodation and food services	731	16.9%
Other services except public administration	193	4.5%
Public Administration	253	5.9%

Source: US Census, 2017-2023 American Community Survey 5-Year Estimates

Population and Employment Projections

The South Jersey Transportation Planning Organization ("SJTPO") is the Metropolitan Planning Organization for the southern New Jersey region, which contains all municipalities in the Counties of Salem, Atlantic, Cape May, and Cumberland. The SJTPO publishes population and employment forecasts for each county and municipality in the region. Between 2020 and 2060, the SJTPO projects population decrease and significant employment growth throughout the region. In the City of Absecon, the SJTPO projects local employment growth of 918 jobs (+24.4%) with an ample decrease in population of 810 people (-8.8%). As shown in Table 19, the City is expected to experience an employment increase (+24.4%) similar to what is expected to occur throughout the County (+25.1%). However, the population is expected to decrease more significantly in Absecon (-8.8%) when compared to the County (-3.1%).

Table 19
City of Absecon
Population and Employment Projections: 2020-2060

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
City of Absecon	9,137	8,327	- 8.8%	3,769	4,687	+ 24.4%
Atlantic County	274,534	266,014	- 3.1%	150,987	188,855	+ 25.1%
SJTPO Region	588,786	557,050	- 5.4%	310,002	378,855	+ 22.2%

Source: SJTPO Population and Employment Projections 2020-2060

Lands Most Appropriate for Affordable Housing

As part of this Plan, Absecon has considered land that is within proximity to public sewer and water and is appropriate for the construction of very-low-, low- and moderate-income housing. Although, Absecon has known contaminated sites and many environmental constraints, including wetlands, floodplains and steep slopes, neither these environmentally sensitive lands nor contaminated site will preclude the City from addressing its affordable housing obligation.

Consistent with smart growth planning principles, the City has and will continue to intersperse affordable housing throughout existing and proposed inclusionary developments in proximity to transportation corridors, Route 9, and Route 30. These areas of the City provide the greatest number of employment opportunities and services, as well as proximity to regional bus service. NJ Transit Bus Routes 508, 554 and 559 connect Hamilton Township, Lakewood, and Lindenwold to Atlantic City. Additionally, the Absecon train station is located on NJ Transit's Atlantic City Line that travels between Atlantic City train station and the Philadelphia 30th Street Station, with connections to NJ Transit's River Line and PATCO and SEPTA lines that provide connections to Trenton, New York, Philadelphia International Airport and beyond.

The City believes that the sites and mechanisms proposed in this document represent the best and most appropriate options for affordable housing development.

Multigenerational Family Housing Continuity

The FHA requires the Housing Element and Fair Share Plan to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). To date, no recommendations have been published.

A review of the City's ordinance indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of allowing senior citizens to reside at the homes of their extended families. The ordinances in City of Absecon do not detract from the multigenerational family continuity goal. The City should update its land use ordinance to expand the areas where accessory apartments and in-law suites are permitted uses.

Consideration of Affordable Housing Options

The Township did not receive proposals from developers of affordable housing projects to satisfy the City's Fourth Round Prospective Need Obligation. The City that the projects that exist and are proposed in this Housing Element and Fair Share Plan represent the best options for affordable housing in the City. While the City of Absecon recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time.

FAIR SHARE PLAN

Affordable Housing and Fair Share Plan

In 1975, in the case Southern Burlington County NAACP v. the Township of Mount Laurel 67 N.J. 151 (1975)l ("Mt. Laurel I"), the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide for the construction of low- and moderate-income housing. The Supreme Court's 1983 decision Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983) ("Mt. Laurel II") expanded the obligation in ruling that all municipalities share in this constitutional obligation to provide a realistic means for addressing a fair share of the regional present and prospective need for housing affordable to low- and moderate-income families provided that any portion of the municipality is located in a "growth area" as set forth in the SDRP. As such, through a municipality's zoning and land use regulations, it is to be realistically possible, through providing of a variety of housing choices, for all categories of people within Housing Region 6 (including Salem, Cumberland, Cape May and Atlantic counties) to live if they choose in the City of Absecon.

City of Absecon Fair Share Obligations

In accordance with the Amended Fair Housing Act, this Fourth Round Housing Element and Fair Share Plan will set forth how the City has addressed prior obligations as well as how it intends to address its Fourth Round affordable housing obligations:

A. Present Need (Rehabilitation) Obligation

The Present Need Obligation, also known as the rehabilitation obligation, can be defined as an estimate of the number of substandard existing deficient housing units currently occupied by low- and moderate-income households. The City of Absecon has a Present Need Obligation of 39 units.

B. Prior Round Obligation (1987-1999)

The City of Absecon has a Prior Round Obligation of 144 units.

C. Third Round Obligation (1999-2025)

The City of Absecon has a Third Round Obligation of 94 units.

D. Fourth Round Prospective Obligation (2025-2035)

The City of Absecon has a Fourth Round Obligation of 22 units.

Housing Strategy:

Affordable Housing Caps and Requirements

In accordance with the requirements set forth in the Amended FHA, City of Absecon will address the following:

A. This plan requires that thirteen percent (13%) of all the affordable units referenced in the Agreement, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, will be very low income units (defined as units affordable to households earning thirty percent (30%) or less of the regional median income be household size), with half of the very low income units being available to families.

B. No more than twenty-five percent (25%) of a municipality's obligation can be satisfied with rental bonus credits.

C. This plan will ensure that at least fifty percent (50%) of the units addressing the Fourth Round Prospective Need Obligation will be affordable to a combination of very-low-income and low-income households, while the remaining affordable units will be affordable to moderate-income households.

D. This plan will ensure that a minimum of twenty-five percent (25%) of the Fourth Round Prospective Need Obligation, exclusive of rental bonus credits, will be met through rental units, including at least half in rental units available to families.

E. This plan will ensure that at least half of thew units, exclusive of any bonus credits, addressing the Township's Fourth Round Prospective Need Obligation will be available to families.

F. This plan complies with the Fourth Round age-restricted cap of thirty percent (30%), exclusive of rental bonus credits.

The housing strategy outlined herein addresses the City's 39-unit Fourth Round Rehabilitation Obligation, 144-unit Prior Round Obligation, 94-unit Third Round Obligation, and the 22-unit Fourth Round Obligation. According to the Below are the mechanisms the City has put in place to address the affordable housing obligations.

<u>Addressing the Present Need Obligation:</u>

The purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety violations that require the repair or replacement of a major system. A major system includes a roof, plumbing, heat, electricity, sanitary plumbing and/or a load bearing structural system. Upon rehabilitation, housing deficiencies are corrected and the unit is brought up to New Jersey Uniform Construction Code standards.

Based on the DCA's calculation for the municipality's present need, a rehabilitation component of thirty-nine (39) units was accepted by the City. The City plans to satisfy this obligation by continuing its participation in the Atlantic County Improvement Authority's rehabilitation program and/or through other rehabilitation programs selected by the City as may become available.

Addressing the Prior Round Obligation:

The City has a Prior Round obligation of 144 units, all of which are constructed and occupied, except for seven (7) units at Absecon Gardens, and all are approved by the Court for creditworthiness in the City's Third Round Final JOR. A realistic opportunity exists for the de elopement of the remaining seven (7) units through existing zoning and approvals. As such, the City is eligible for twelve (12) credits from the Absecon Gardens project.

Table 20
Prior Round Affordable Housing Unit Crediting

Development	Special Needs	Family	Senior	Rentals	Units	Bonus Credits	Total Credits	Status
Credits without Controls					8		8	Constructed & Occupied Approved by Court in JOR
ARC of Atlantic County 637 Weiler Lane	6			6	6		6	Constructed & Occupied Approved by Court in JOR
Caring, Inc. 610 Seminole Avenue	4			4	4	4	8	Constructed & Occupied Approved by Court in JOR
Community Quest 703 Highland Blvd	4			4	4	4	8	Constructed & Occupied Approved by Court in JOR
Caring, Inc. 805 Seaside Avenue 640 Ohio Avenue 206 Wynnewood Drive	13			13	13	13	26	Constructed & Occupied Approved by Court in JOR
Absecon Gardens		12		12	12		12	Constructed & Occupied Approved by Court in JOR
AB Visions (Senior)			36	36	36		36	Constructed & Occupied Approved by Court in JOR
Conifer Realty		25		25	25	15	40	Constructed & Occupied Approved by Court in JOR
Total Credits	**27**	**37**	**36**	**100**	**108**	**36**	**144**	

Addressing the Third Round Obligation

The City of Absecon has a Third Round (1999-2025) Obligation of 94 units and has addressed said obligation as follows:

Table 21
Third Round Affordable Housing Unit Crediting

Development	Special Needs	Family	Senior	Rentals	Units	Bonus Credits	Total Credits	Status
AB Visions (Family)		24		24	24		24	Constructed & Occupied Approved by Court in JOR
Conifer Realty		46		46	46	24	70	Constructed & Occupied Approved by Court in JOR
Total Credits		**70**		**70**	**70**	**24**	**94**	

Addressing the Fourth Round Obligation

City of Absecon has a Fourth Round (2025-2035) obligation of 22 and will address said obligation as follows:

A. Veteran's Village / 301 Absecon, LLC:

The developer purchased the former motel located at 301 Absecon Boulevard. The project received preliminary and final major site plan approval from the Planning Board on November 8, 2023. The developer proposed 26 age-restricted units with four (4) of the 26 units to be deed restricted for affordable housing. A copy of the Decision & Resolution #6-2023, memorialized on December 13, 2023, is included. See Appendix C.

As per COAH's Prior Round regulations, the site is considered to be an approvable site due to its ability to be developed with affordable housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site has a clear title and is free of encumbrances which would preclude the development of affordable housing, making it an available site. The site is also developable, meaning that it has appropriate water and sewer infrastructure available. It is also considered suitable, meaning that it is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

The project has received approval from the City's Planning Board and is working through outside agency approvals and construction permits. It is anticipated that

deed restrictions will be filed before the end of 2025 for the affordable units. The City seeks 4 credits to be used towards the Fourth Round obligation.

B. Transitional Living:

Hansen House, located at 625 N. Shore Road, is an existing transitional living house with a total of 7 bedrooms with a total occupancy of 10 residents. The property is licensed by the State of New Jersey as a Rooming and Boarding House. Annual inspections are conducted by the DCA. In accordance with the new legislation, in the Fourth Round, municipalities can count credits for transitional housing for up to 10% of the fair share obligation. The City is applying two (2) credits towards the Fourth Round obligation for this facility.

C. Train Station Overlay Zoning:

The Settlement Agreement between the City and FSHC required the City to amend the existing Train Station Overlay district zoning and the City amended the ordinance in 2018. See Appendix D. The 21.5 acre privately owned area (consisting of multiple sites) is located adjacent to U.S. Route 30 (White Horse Pike) and is currently almost fully developed. The purpose of the Train Station Overlay district is to revitalize the area by developing mixed uses which will add more pedestrian activity, increase trade in the City's Business District, encourage multi-modal transportation and connections and provide for affordable housing. The redevelopment of the train station area is intended to redevelop the Downtown Central Business District and connect the Absecon Train Station to New Jersey Avenue. Train Station Overlay District zoning was amended to allow a density of 35 units per acre with the inclusion of a 15% affordable housing set-aside for a rental development and a 20% affordable housing set-aside for a for-sale development. However, the City recognizes that under COAH rules and the Amended Fair Housing Act credit for affordable housing units provided in this previously developed area is not warranted unless either a developer in the area secures site plan approval from the Planning Board for an inclusionary project or a redevelopment agreement between a developer and the City is executed. Any sites approved for inclusionary zoning must address the City's Affordable Housing Ordinance. Based on the area of the overlay zone and the permitted density for the Train Station Overlay District at full build-out, it would provide the opportunity for the construction of up to 112 affordable rental units. The City is applying 2 credits to the Fourth Round obligation. If there are any credits created beyond what is needed to satisfy the City's Fourth Round obligation, the excess credits will be reserved for the Fifth Round under the applicable law.

Under the new Fourth Round rules, bonuses are applied to transit-oriented development within one-half mile of public transit stations. A bonus of 0.5 credits per affordable unit may be applied to units developed within one-half mile of the New Jersey Transit Rail Station in Absecon.

D. Accessory Apartments:

The City of Absecon is proposing a 10-unit accessory apartment program to address its Fourth Round obligation. The City has sufficient existing accessory housing stock within its residential zoning districts to provide opportunities for accessory apartments.

The proposed ordinance conditionally permits accessory apartments, which may be located in the principal building or in an existing permitted accessory building, such as a barn or garage, and may include existing and/or expanded structure construction. The ordinance requires a minimum floor area of at least 650 square feet but no greater than gross floor area of the existing principal structure. A limit of 10 accessory apartments is permitted by the ordinance, with five of them reserved as low-income units. Of the five low-income units, one will be deed restricted for a very low-income household. A draft ordinance is included. See Appendix E. The City is applying 6 family rental unit credits to the Fourth Round obligation from the proposed accessory apartment mechanism.

Table 22
Affordable Housing Mechanisms – Potential Units

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	Units/Bedrooms	Total Units/Bedrooms + Bonuses
Train Station Overlay Zone	Inclusionary	112	112
Accessory Apartments		10	10
TOTAL		**122**	**122**

Table 23
Fourth Round Affordable Housing Unit Crediting

Development	Special Needs	Family	Senior	Rentals	Units	Bonus Credits	Total Credits
Train Station Overlay Zoning		6		6	6		6
Veteran's Village			4	4	4		4
Transitional Living				2	2		2
Accessory Apartments				10	10		10
Total Credits		**6**	**4**	**22**	**22**		**22**

The City maintains, and will maintain in full effect for the duration of the forthcoming round, an affordable housing ordinance which includes provisions establishing a inclusionary overlay zone districts and has established multiple inclusionary zone districts and affordable housing overlay zone districts which require the development of additional low- and moderate-income housing opportunities.

Very Low-Income Units

Pursuant to the amended FHA (P.L. 2008, c.46), the City must ensure that at least 13% of affordable housing units approved and constructed (or to be constructed) after July 17, 2008, are available to very low-income households. The City will exceed the requirement that 13% of units be available to very low-income households in both the Third Round and Fourth Round.

Per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing the Fourth Round Prospective Need must be "available for families with children." To meet this requirement, the City will continue to pursue affordable housing opportunities for family rental units.

The City has 192 affordable units proposed, approved, and constructed on or after July 17, 2008. As such, the very low income obligation is 24 units (0.13 x 182), including the following:

Table 24
Very-Low Income Obligation Calculation

Development	Affordable Units
Caring, Inc. 610 Seminole Avenue	4
Caring, Inc. 805 Seaside Avenue 640 Ohio Avenue 206 Wynnewood Drive	13
Absecon Gardens	12
AB Visions (Senior)	36
AB Visions (Family)	24
Conifer Realty	71
Train Station Overlay Zoning	6
Veteran's Village	4
Transitional Living	2
Accessory Apartments	10
Total	**182**
13%	**24**

As illustrated in the Income Distribution table, the City far exceeds it very ow income obligation. Additionally, 18 of the City's very low-income units are family units in that they are not restricted to special needs or age-restricted households.

Income and Bedroom Distribution

The City will continue to follow the UHAC rules and regulations and ensure that the new affordable housing developments will comply with N.J.A.C. 5:93-7.2 through 7.3.

Table 25
Income Distribution

Development	Family	Senior	Rentals	Income Level		
				Very Low	Low	Moderate
Constructed/Approved Units						
Credits without Controls	X			N/A	N/A	N/A
ARC of Atlantic County 637 Weiler Lane			X		6	
Caring, Inc. 610 Seminole Avenue			X	4		
Community Quest 703 Highland Blvd			X	4		
Caring, Inc. 805 Seaside Avenue 640 Ohio Avenue 206 Wynnewood Drive			X	13		
Absecon Gardens	X		X			5
AB Visions (Senior)		X	X	5	13	18
AB Visions (Family)	X		X	8	9	7
Conifer Realty	X		X	9	27	35
Proposed Units						
Train Station Overlay Zoning	X		X	1	3	2
Veteran's Village		X	X	1	2	1
Transitional Living			X		2	
Accessory Apartments			X	2	5	3
			Total	**47**	**64**	**71**

Affordable Housing Administration and Affirmative Marketing

City of Absecon currently has an Affordable Housing Ordinance, §224-194 of the City Code. See Appendix F. The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the City, including, but not limited to, the phasing of affordable units, the mix of very-low-, low- and moderate-income units, bedroom distribution, occupancy standards, affordability controls, rents and sales prices, affirmative marketing, and income qualification. An ordinance establishing the Affordable Housing Development Fees were adopted by Ordinance #3-2025 on May 15, 2025. See Appendix G.

The City will prepare an updated Affordable Housing Ordinance in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations, once the DCA and HMFA finalize their rule proposals.

The City shall adopt by resolution an updated Affirmative Marketing Plan. The City's Administrative Agent designated by the City of Absecon, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

The City has appointed a Municipal Housing Liaison by resolution. See Appendix H. The City will contract with an Administrative Agent to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the City. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the City's housing region, Region 6, consisting of Atlantic, Cape May, Cumberland, and Salem counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year (or 40-year for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 *et seq*. This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

State Development and Redevelopment Plan

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SRDP) and the draft proposed SDRP as the proposed projects and zoning mechanisms will provide the opportunity for the construction of affordable housing.

The City of Absecon is located in the PA-1 Metropolitan Planning Area. Per the SDRP, the intent for PA-1 is to:

- provide for much of the State's future redevelopment;
- revitalize cities and towns;
- promote growth in compact forms;
- stabilize older suburbs;
- redesign areas of sprawl; and
- protect the character of existing stable communities.

Areas of the City that are situated in the PA-5 Environmentally Sensitive areas are not suitable for development and per the SDRP, the intent for PA-5 is to:

- protect environmental resources through the protection of large contiguous

areas of land;
- accommodate growth in Centers;
- protect the character of existing stable communities;
- confine programmed sewers and public water services to Centers; and
- revitalize cities and towns.

The City continues to encourage the development of affordable housing in the PA-1. This is consistent with the overall SDRP goal to direct redevelopment and growth into areas where infrastructure can support the development and support services such as open space, retail shopping and public transportation are within walking distance.

Cost Generation

The City's Subdivision of Land and Site Plan Review and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The City will amend, if needed, the Planning Board rules for expediting the review of development applications for affordable housing projects, including, but not limited to, scheduling special monthly public hearings. All development applications containing affordable housing shall be reviewed for consistency with the City's ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the FHA regarding unnecessary cost-generating requirements. The City will comply with COAH's requirements for unnecessary cost-generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C.5:93-10.3.

Once the DCA and HMFA finalize their rule proposes, the City will revise its Land Use and Development ordinances, if needed, in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations in order to comply with the new requirements to address cost-generative issues.

Spending Plan

The City has prepared a Fourth Round Spending Plan which discusses anticipated revenues, collection of revenues, and the use of revenues, in accordance with N.J.A.C. 5:93-5.1(c). All collected revenues are placed in the City's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the City will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement.

The City may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable

housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures. N.J.S.A. 52:27D-329.2 permits the use of revenues generated by a development fee ordinance for activities that address the municipal fair share obligation including, but not limited to, rehabilitation, new construction, improvement to land, roads and infrastructure for affordable housing, assistance to render units more affordable, and administrative costs of housing plan implementation.

A minimum of 30% of the collected development fees must be used to provide affordability assistance to low- and moderate-income households in affordable housing units included in the City's Fair Share Plan. A minimum of one-third (1/3) of the affordability assistance must be utilized for very-low-income units.

No more than 20% of the revenues collected each year from development fees shall be spent on administrative fees, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

The adoption of the City's Spending Plan will constitute a commitment for expenditure pursuant to N.J.S.A. 52:27D-329.2. The four-year deadline to commit and expend collected fees for emerging compliance mechanisms shall commence upon the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

Summary

Through the proposed mechanisms addressed in this Housing Element and Fair Share Plan, the City will be able to satisfy its Rehabilitation, Prior Round, Third Round and Fourth Round Prospective Need affordable housing obligations by 2035 providing for a realistic opportunity for the production of very low-, low- and moderate-income units within the City.

APPENDIX A – Fourth Round Declaratory Judgment Complaint with City Resolution Committing to Fourth Round Obligations

John P. Amenhauser, Esquire
Attorney Identification No. 121372014
THE DEWEESE LAW FIRM, P.C.
3200 Pacific Avenue
Wildwood, New Jersey 08260
(609) 522-5599; Fax (609) 522-3003
Attorneys for Declaratory Plaintiff, City of Absecon

IN THE MATTER OF THE APPLICATION OF THE CITY OF ABSECON, COUNTY OF ATLANTIC, STATE OF NEW JERSEY	SUPERIOR COURT OF NEW JERSEY LAW DIVISION ATLANTIC COUNTY DOCKET NO.: ATL-L- Civil Action AFFPORDABLE HOUSING PER DIRECTIVE #14-24 **COMPLAINT FOR DECLARATORY RELIEF PURSUANT TO DIRECTIVE #14-24**

Declaratory Plaintiff, the City of Absecon, County of Atlantic, State of New Jersey (hereinafter "Absecon" or the "City"), a municipal corporation of the State of New Jersey, with a principal office at 500 Mill Road, Absecon, New Jersey 08201, by way of this Declaratory Judgment Action ("DJ Action") as authorized under Directive #14-24 of the Administrative Office of the Courts alleges and says:

Background

1. Absecon is a body corporate and politic organized under the laws of the State of New Jersey.

2. The Mayor and City Council are the governing body of Absecon and are responsible, inter alia, to ensure that Absecon takes the actions necessary to achieve and maintain compliance with its obligations under the laws collectively known as the "Mount Laurel Doctrine"
3. The Planning Board of Absecon (hereinafter the "Planning Board") is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., (hereinafter the "MLUL"), and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan ("HEFSP") of Absecon's Master Plan.
4. Through this DJ Action, Absecon seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the "Program") pursuant to P.L. 2024, c.2 (hereinafter, the "Act") and the Court, pursuant to Directive #14-24; (b) to have the Program and the Court approve the City's Present and Perspective affordable housing obligations as set forth in the binding resolution adopted by the City, attached hereto as *Exhibit A*; (c) to have the Program and the Court approve a HEFSP to be adopted by the Planning Board and endorsed by the Council and issue a conditional or unconditional "Compliance Certification" pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm the City's immunity from all exclusionary zoning litigation, including builder's remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of the Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to

ensure that the City receive and obtain all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third-party litigation.

COUNT 1

ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C.2

5. The City of Absecon repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if more fully set forth at length herein.
6. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq.
7. Among other things , the Act abolishes the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall, judges that have been designated as the Program. Among other things, the Act authorizes the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for a compliance certification.
8. On or about December 13, 2024, the Director issued Directive #14-24, which, among other things, required municipalities seeking compliance certification to file an action in the form of a declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located within forty-eight (48) hours after the municipality's adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the DJ Action.

9. The City adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as *Exhibit A*.

10. Based on the foregoing, the City has established the jurisdiction of the Program and the Court in regard to this DJ Action for a compliance certification as set forth herein.

WHEREFORE, the City of Absecon seeks a declaratory judgment for the following relief:

a. Declaring that the City of Absecon has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as Exhibit A to this DJ Action or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Absecon under the Act;

c. Declaring the approval of the City of Absecon's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as applicable, any applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d. Declaring that the City of Absecon continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of

Absecon for the time period beginning July 1, 2025, and ending on June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT II

DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE CITY OF ABSECON

11. City of Absecon repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if more fully set forth at length herein.

12. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

13. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

14. The DCA issued its report on October 18, 2024.

15. Pursuant to the October 18, 2024, report, the DCA calculated Absecon's present and prospective affordable housing obligations as follows:

    a. Present Need: 39 Units

    b. Prospective Need: 22 Units

16. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a "binding resolution" determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.
17. Absecon adopted a binding resolution, a copy of which is attached hereto and made a part hereof as *Exhibit A* as to DJ Action.
18. The binding resolution maintains that the Present ("Rehabilitation") Need obligation of Absecon is 39 and its Prospective Need obligation is 22.
19. Absecon seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as *Exhibit A* or the adjustment of those obligations consistent with the Act and the applicable COAH regulations.

WHEREFORE, the City of Absecon seeks a declaratory judgment for the following relief:

a) Declaring that the City of Absecon has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as *Exhibit A* to this DJ Action or to adjust such determination consistent with the Act;

b) Declaring the present and prospective affordable housing obligations of the City of Absecon under the Act;

c) Declaring the approval of the City of Absecon's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as applicable, any adjustments permitted in accordance with the Act and/or applicable COAH regulations;

d) Declaring that the City of Absecon continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e) Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Absecon for the period beginning July 1, 2025, and ending on June 30, 2035; and

f) Declaring such other relief that the Program and the Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT III

HOUSING ELEMENT AND FAIR SHARE PLAN

20. The City of Absecon repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if more fully set forth at length herein.

21. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, "HEFSP") must be prepared, adopted by the City's Planning Board, and endorsed by the municipality's governing body by June 30, 2025.

22. Absecon hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, and any applicable adjustments, as appropriate, that is permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the City of Absecon seeks a declaratory judgment for the following relief:

a) Declaring that the City of Absecon has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the

binding resolution attached as *Exhibit A* to this DJ Action or to adjust such determination consistent with the Act;

b) Declaring the present and prospective affordable housing obligations of the City of Absecon;

c) Declaring that the City of Absecon's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as applicable, any adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d) Declaring that the City of Absecon continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e) Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Absecon for the period beginning July 1, 2025, and ending June 30, 2035; and

f) Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT IV

CONFIRMATION OF IMMUNITY

23. The City of Absecon repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if more fully set forth at length herein.

24. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

25. The City of Absecon has met the deadline for adoption and filing of its binding resolution (and the filing of this DJ Action in accordance with Directive #14-24) not later than January 31, 2025 by adopting the binding resolution attached to this DJ Action as *Exhibit A*, and has committed to the adoption of its HEFSP by the June 30, 2025, deadline.

WHEREFORE, the City of Absecon seeks a declaratory judgment for the following relief:

a) Declaring that the City of Absecon has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as *Exhibit A* to this DJ Action or to adjust such determination consistent with the Act;

b) Declaring the present and prospective affordable housing obligations of the City of Absecon;

c) Declaring that the City of Absecon's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as applicable, any adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d) Declaring that the City of Absecon continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e) Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Absecon for the period beginning July 1, 2025, and ending June 30, 2035; and

f) Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

THE DEWEESE LAW FIRM, P.C.
Attorneys for Plaintiff

BY: _____
JOHN P. AMENHAUSER, ESQUIRE
For the Firm

Dated: January 18, 2025

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned, John P. Amenhauser, Esquire, certifies on behalf of the above-named Plaintiff, as follows:

1. I am an attorney admitted to practice in the State of New Jersey and am a partner with The DeWeese Law Firm, P.C., counsel for the above-named Plaintiff.

2. The matter in controversy in this matter is not the subject of any other action pending in any Court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

3. At this time, there are no other parties who should be joined in this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

THE DEWEESE LAW FIRM, P.C.
Attorneys for Plaintiff

BY: _____
JOHN P. AMENHAUSER, ESQUIRE
For the Firm

Dated: January 18, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

John P. Amenhauser, Esq., of full age, hereby certifies as follows:

1) I am a partner with The DeWeese Law Firm, P.C., attorneys for the Declaratory Plaintiff, City of Absecon.

2) I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for false swearing.

THE DEWEESE LAW FIRM, P.C.
Attorneys for Plaintiff

Dated: January 18, 2025

BY: _____
JOHN P. AMENHAUSER, ESQUIRE
For the Firm

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), John P. Amenhauser, Esquire, of The DeWeese Law Firm, P.C., is hereby designated as trial counsel for Plaintiff in this matter.

THE DEWEESE LAW FIRM, P.C.
Attorneys for Plaintiff

Dated: January 18, 2025

BY: _____
JOHN P. AMENHAUSER, ESQUIRE
For the Firm

Exhibit A

CITY OF ABSECON

RESOLUTION 44-2025

A RESOLUTION SETTING 4TH ROUND AFFORDABLE HOUSING OBLIGATIONS FOR THE CITY OF ABSECON, COUNTY OF ATLANTIC

WHEREAS, on March 20, 2024, the New Jersey Legislature adopted legislation known as P.L.2024, c.2, which set forth a procedure for calculating the 4th Round affordable housing obligation for municipalities, and which required this calculation to be adopted by the governing body of a municipality by way of Resolution; and

WHEREAS, N.J.S.A. 52:27D-304.1(a) allows the municipality to take into consideration the calculations published by the New Jersey Department of Community Affairs ("DCA") when determining the municipal Present Need and Prospective Need obligations and requires the basis for the municipality's determination to be set forth in a Resolution; and

WHEREAS, in October 2024, DCA released its proposed calculations for municipal Present Need and municipal Prospective Need and determined that Absecon City's Present Need is 39 units and its Prospective Need is 22 units; and

WHEREAS, the City's affordable housing professionals have reviewed the Present Need calculations and Prospective Need calculations published by the DCA appear to conform to the standards established under the Fair Housing Act, and have recommended that the City adopt these calculations as the City of Absecon's 4th Round affordable housing obligations; and

WHEREAS, the City of Absecon has determined that it is in the best interests of Absecon City to accept the Present Need and Prospective Need obligations as calculated by the DCA for the 4th Round.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Absecon, as follows:

1. The City hereby adopts the fourth-round methodology for fair share housing obligations determined by the New Jersey Department of Community Affairs which sets forth the City's present need is 39 units, and its prospective need is 22 units.

2. John Amenhauser, Esq. of the DeWeese Law Firm, P.C. is directed to file a Complaint for Declaratory Judgment and to file a copy of this Resolution with the Affordable Housing Alternative Dispute Resolution Program as required by the Amended FHA.

3. A certified copy of this Resolution shall be forwarded by the City Clerk within forty-eight (48) hours to the following:

(a) Department of Community Affairs

(b) A copy shall be posted on the City's website

(c) Jennifer Heller, PP, AICP, City Planner

(d) John Amenhauser, Esq., City Solicitor

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

Dated: January 16th, 2025

This is to certify that this is a true Copy of a Resolution adopted by the Council of the City of Absecon at a regular meeting held January 16th, 2025

ATTEST: Carie A Crone, RMC

Carie A. Crone, RMC, Municipal Clerk

Case Details | Case Number: ATL-L-000000-25

Case Caption:

Court: Civil Part | Venue: ATLANTIC | Case Initiation: 01/21/2025

Case Track: | Case Status: | Jury Demand: NONE

Case Type: AFFORDABLE HOUSING | Judge: | Team: 0

Law Firm Case ID:

Transaction Information

Transaction ID: LCV2025143023 | Received by eCourts On: 01/18/2025 | Total Payment Amount: $250.00

Documents Received:

COMPLAINT

MUNICIPAL RESOLUTION

APPENDIX B – Court Order Setting the City's Fourth Round Obligations

PREPARED BY THE COURT:

IN THE MATTER OF THE DECLARATORY JUDGMENT ACTION OF THE CITY OF ABSECON, ATLANTIC COUNTY PURSUANT TO P.L. 2024, CHAPTER 2	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – CIVIL PART ATLANTIC COUNTY DOCKET NO. ATL-L-118-25 Civil Action **ORDER FIXING MUNICIPAL OBLIGATIONS FOR "PRESENT NEED" AND "PROSPECTIVE NEED" FOR THE FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 21, 2025 ("DJ Complaint") by the Petitioner, **CITY OF ABSECON** ("Petitioner" or "Municipality"), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the "FHA"), and in accordance with Section II.A of Administrative Directive #14-24 ("Directive #14-24") of the Affordable Housing Dispute Resolution Program (the "Program"), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs ("DCA") issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round),*[1] therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the "DCA's Fourth Round Report");

[1] *See* https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **39** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **22** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND THE COURT, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

AND THE COURT, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

IT IS, THEREFORE, on this 27th day of **MARCH 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **39** affordable units for the Fourth Round housing cycle.

2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **22** affordable units for the Fourth Round Housing cycle; and

3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:

Hon. John C. Porto, P.J. Cv.

(X) Uncontested.

APPENDIX C: Planning Board Decision & Resolution #6-2023 for 301 Absecon, LLC

FITZGERALD McGROARTY
747 Shore Road
Linwood, New Jersey 08221
(609) 927-0015
Attorneys for Absecon Planning Board

APPLICATION OF 301 ABSECON, LLC FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCE AND WAIVERS, BLOCK 224, LOTS 13, 14 & 15	**ABSECON PLANNING BOARD** **APP. NO. 6-2023** **DECISION AND RESOLUTION**

This application for Preliminary and Final Major Site Plan Approval having been heard by the Planning Board of the City of Absecon on November 8, 2023, at its regular meeting at the Municipal Complex, 500 Mill Road, Absecon, New Jersey and a hearing on the applications having been conducted with a quorum present; and

WHEREAS, the City of Absecon Planning Board has heard the testimony of Consulting Planner, Christopher Dochney, PP, AICP of CME Associates, and received his report dated October 13, 2023; and

WHEREAS, the City of Absecon Planning Board has heard the testimony of Consulting Engineer, Chris Eaton, of Colliers Engineering & Design and received the report of October 17, 2023; and

WHEREAS, the Absecon Planning Board has received and reviewed the following documents:

Title	Prepared By	Date	Revised
Variance Plan/Minor Site Plan	William P. McManus, PLS	08/01/23	
Topographic Survey	William P. McManus, PLS	04/04/23	
Minor Site Plan	William P. McManus, PLS and Thomas C. Roesch, PE	08/01/23	
Proposed Veterans Village Floor Plan & Elevations, Building 1	Harry S. Harper, RA	08/14/23	08/22/23
Proposed Veterans Village Floor Plan & Elevations, Building 2	Harry S. Harper, RA	08/14/23	
Survey of Block 224	James R. Boney, PLS	12/27/22	
Letter to Tina Lawler	Michael J. Lario, Esquire	09/11/23	

WHEREAS, the following additional findings of fact and conclusions are made at this time:

1. **Application.** The Applicant and owner of the property is 301 Absecon, LLC. The property is located at Block 224, Lots 13, 14 & 15. The property is located within the Highway Development District No. 1 and the Age Restricted Housing Overlay District. Independent living dwelling units are permitted in the District provided they are age restricted to residents 55 and over. The application seeks preliminary and final site plan approval with variances and waivers.

2. **Hearing**. Testifying on behalf of the Application was Gladys Krasicki and Elliot Tawil. Also testifying were William McManus, PP, PLS and Thomas Roesch, PE

of Duffy, Dolcy McManus and Roesch and Harry Harper, RA of Harry S. Harper, Architects. The Applicant was represented by Michael J. Lario, Esquire.

3. **Public Notice**. Public notice in accordance with N.J.S.A. 40:55D-12 was provided by the Applicant.

4. **Decision**. Applicant is granted preliminary and final site plan approval with the following variances:

   a. Parking - A variance allowing twenty-seven (27) parking spaces when 28 spaces are required;

   b. A variance allowing the size of the units to be 225 sq. ft. when 600 sq. ft. are required; and

   c. Several bulk variances involving pre-existing conditions identified in the CME report of October 13, 2023.

5. **Conditions**. In addition to the conditions identified and set forth in the CME Associates report dated October 13, 2023 and the Colliers Engineering report dated October 17, 2023, the Applicant shall complete the following, which shall be considered conditions for approval:

   a. The Applicant shall provide to the Board Professionals a detailed plan showing the gazebo, seating, etc.;

   b. The Applicant shall on a yearly basis provide financial information regarding the tenants to assist the City of Absecon in obtaining credit under the Affordable Housing Plan;

   c. The Applicant shall upgrade and provide to the Board Professionals a

revised Site Plan which would include signage and lighting; and

d. The Applicant shall designate four (4) units as "affordable housing" which shall be memorialized by Deed Notice. These affordable housing units will contribute towards the City of Absecon's Affordable Housing obligation.

6. **Waivers**. The waivers identified in the reports of the City Engineer and Planner will be granted on the conditions set forth in those reports.

7. **Payment of Taxes and Fees.** These approvals are conditioned upon payment of all taxes and assessments on the subject property. In addition, these approvals are conditional upon payment of all application fees and escrows.

8. **Compliance With Approval.** These approvals are based upon the full and diligent adherence by the Applicant to all representations made to the Board. Any failure of the Applicant or the Applicant's successors or assigns to fully adhere to all of the provisions of these approvals and all representations made by or on behalf of the Applicant, directly or indirectly, in the hearing or in the application documents, may be deemed to be a material breach of these approvals. In addition, the City may seek the imposition of fines or penalties or may pursue any other remedy available to it at law or in equity, including an action in the Superior Court to enjoin such violation or to compel performance or compliance.

9. **Other Approvals.** The Applicant shall comply with all federal, state and local laws, rules and regulations and shall obtain any and all other necessary government approvals required for this project. If as a result of the review by any other

governmental agency there is any change in the approvals by this Board or any modification of any statement or representation made by or on behalf of the Applicant, the Applicant must notify the Board and the Board shall have the right to review that issue as it may relate to or impact these approvals and the Board may modify or amend these approvals as appropriate. If there are any revisions to the plans or documents which have been approved by the Planning Board, the Planning Board must be notified in accordance with Paragraph 17 Satisfaction of Conditions. Approvals which may be required include, but are not necessary limited to, the following:

a. Atlantic County Planning Board;

b. Cape Atlantic Soil Conservation District;

c. New Jersey Department of Transportation;

d. New Jersey Department of Environmental Protection Coastal Area Facilities Review Act Permit.

NOW, THEREFORE, BE IT DECIDED AND RESOLVED by the Planning Board of City of Absecon that Application No. 6-2023 for Preliminary Site Plan Approval with variances and waivers is hereby granted subject to the conditions set forth above by a vote of (6) in favor, (0) opposed, and (0) abstained.

DATED:

12/13/23

Robert Preston, Chairman

Tina Lawler, Board Secretary

RE: 301 Absecon, LLC
Preliminary and Final Site Plan
Michael J. Lario, Esquire

APPLICATION 6-2023
VOTING IN FAVOR:
Howell, Kirk, Reilly, Thompson, Strugala, Preston

OPPOSED: None

ABSENT: None

APPENDIX D: Train Station Overlay District Ordinance

ARTICLE XXXIII
Train Station Area Overlay District

§ 224-280. Purpose. [Ord. No. 23-2007 § 224-265]

The purpose of the Absecon Train Station Area Overlay is to revitalize the area by developing mixed uses, which will add more pedestrian activity, increase trade in the Absecon Central Business District, to encourage pedestrian oriented uses to replace existing vehicle oriented uses, encourage pedestrian links, transit ridership and the development of housing to meet our constitutional obligation to provide for affordable housing. The development of Absecon Train Station Area is intended to create a stronger sense of community in the area, by using the Train Station as a focus; redevelop the old Downtown Central Business District; and connect the Absecon Train Station to New Jersey Avenue.

Nothing contained in this Train Station Overlay section shall supersede in any way Ordinance 4-2004 of the City of Absecon adopting a Redevelopment Plan for Redevelopment Area 1.* Further nothing contained in this Train Station Overlay will supersede the area designated as "In need of Redevelopment" by City of Absecon Council Resolution 209-2000 dated November 16, 2000. If there are any conflicts between the Train Station Overlay regulations and regulations pursuant to Ordinance 4-2004 or Resolution 209-2000 the regulations pursuant to Ordinance 4-2004 and Resolution 209-2000 shall prevail.

§ 224-281. Permitted uses. [Ord. No. 23-2007 § 224-268]

In order to further the purposes of the Absecon Train Station Area, only the uses set forth in the following sections are permitted when development is pursuant to the requirements of the overlay. A mix of a minimum of 65% residential and maximum of 35% commercial is required as described in this section.

The permitted uses below are also permitted on lands currently owned by NJ Transit, its successors and assigns. The developer is encouraged to include the NJ Transit property in the proposed development. The City Administrator, with approval of the Mayor and Council, may assist with coordination with the NJ Transit and the developer to possibly enter into a joint-venture to construct a shared parking garage, pedestrian access walks and bridges, commercial uses at the platform level and residential units above.

A. Permitted principal commercial uses.

(1) The following commercial uses are permitted provided commercial uses do not exceed 35% of the gross floor area of the proposed development not including the floor area for enclosed parking garage providing parking for the development.

(a) Commuter parking facilities and passenger drop-off and pick-up areas;

(b) Retail sales and other uses generating pedestrian activity, serving neighborhood residential and commuters, but excluding sale of building materials, plumbing supplies, motor vehicles, boats or swimming pools, large appliances;

(c) Personal and household services and business services; but excluding vehicle maintenance, repair, auto body, gas stations and similar uses;

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(d) Restaurants and similar establishments selling food and/or beverages, but excluding drive-through windows;

(e) Day care centers, including nursery schools;

(f) Public buildings such as municipal offices, police station, library, post office, museum, and similar uses that directly serve the public, but excluding facilities such as public works garage, water treatment plant, electric transformer station, and uses of similar nature;

(g) Banks and savings and loan institutions including drive troughs.

(h) Public parks;

(i) Train stations;

(j) General Business Offices, Offices for professionals such as architects, attorneys, doctors, engineers, planners and landscape architects.

(2) The following residential uses are permitted provided residential uses represent a minimum of 65% of the gross floor area of the proposed development, excluding parking garage area.

(a) Residential units in apartment buildings for rent or for sale as condominium units above commercial uses on ground floor and/or enclosed parking garages. The permitted by-right density shall not exceed six dwelling units per acre without the inclusion of affordable housing. The permitted density is 35 units per acre with the inclusion of 25% affordable housing units as described in Section 224-194. With affordable housing, the density, size, location and number of dwelling units to be determined by market conditions, New Jersey Uniform Construction Code (NJUCC) requirements and the development's conformity with use mix set forth in Section 224-281 and the bulk requirements set forth with Section 224-282.

The lawfully existing uses within the proposed Absecon Train Station Area Overlay at the time of the adoption of this Article will retain their rights to develop/expand their facilities in accordance with the permitted uses and bulk area requirements of the existing underlying zoning districts without seeking relief of the Zoning Board of Adjustment.

§ 224-282. Area, yard and bulk requirements. [Ord. No. 23-2007 § 224-269]

A. Minimum lot size: 7,500 square feet.

B. Minimum lot width: 75 feet.

C. Maximum building coverage: 65% with the inclusion of affordable housing, 50% without affordable housing.

D. Maximum impervious coverage: 80% with the inclusion of affordable housing; 60% without affordable housing.

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E. Minimum front yard setback:

(1) Open porches, open balconies, open pedestrian walkways (covered or uncovered): zero feet.

(2) Building face: eight feet.

F. Minimum side and rear yard setback:

(1) Open porches, open balconies, open pedestrian walkways (covered or uncovered): three feet.

(2) Building face: 10 feet.

(3) Between structures on adjoining lots: (including open porches, open balconies, open pedestrian walkways, covered or uncovered): 10 feet.

G. Maximum building height:

(1) New Jersey Avenue area: Two stories or 28 feet maximum with commercial units at the ground level, offices and or residential units at the second level without the inclusion of affordable housing units; three stories or 35 feet maximum with commercial units at the ground level, offices and or residential units at the second level and residential units at the third level with the inclusion of affordable housing units.

(2) Train station platform area: Three stories or 35 feet maximum with ground level commercial units, Train Station platform level (or second level) commercial units and residential units at the third level without the inclusion of affordable housing units; four stories or 45 feet maximum with ground level commercial units, Train Station platform level (or second level) commercial units and residential units at the third and fourth levels with the inclusion of affordable housing units;

(3) Train station platform area with ground level enclosed parking: Four stories or 45 feet maximum with ground level enclosed parking, commercial units at the Train Station Platform Level and residential units at the third and fourth levels without the inclusion of affordable housing units; five stories or 55 feet maximum with ground level enclosed parking, commercial units at the Train Station Platform Level and residential units at the third, fourth and fifth levels with the inclusion of affordable housing units;

(4) For all buildings the top floor shall be a gable roof design with gable roof dormers with windows.

(5) The minimum slope of the gable roof shall be six feet in height for every 12 inches of width.

(6) Roof height shall be measured from the average finish grade around the building to the mean height of the highest gable roof.

(7) Variable roof heights are required. A minimum 30% of the building must be below the maximum building height.

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§ 224-283. Design standards. [Ord. No. 23-2007 § 224-283]

A. Within the Train station platform area, incentives should be provided to attract commuter-serving retail and service stores at the train station platform level with apartments conveniently located above the commercial units.

B. Site and building design and layout will encourage resident, commuters, visitors and other travelers to use the Absecon Train Station with the help of a visible point of identity;

C. Site and building design and layout shall provide for easy access to the transportation center; continuous and safe sidewalks and pathways that make pedestrian access easy; bike paths and storage location that encourage bicycle access; safe and comfortable places to wait and meet others;

D. Overall site and building design shall include an environment that is active, human scaled, and visually safe, well lit, attractive areas for parking, drop-off and pick-up; and a sense of safety, security and predictability.

E. In the New Jersey Avenue area, improvements to all street-front facades shall be required as part of any second floor expansion to include apartments or offices above the commercial units at street level.

F. Architectural requirements:

(1) The traditional/historical character of Absecon shall be maintained. An example would be the early 20th century train station or the Absecon Manor at the corner of Ohio Avenue and Station Avenue.

(2) Natural wood siding, (common 2 2/3 inch height) brick, stone or similar or compatible building materials shall be utilized.

(3) Traditional late 19th century to early 20th century architectural design is encouraged for all in new construction. Examples of architectural styles that are encouraged include Georgian, Federal, Greek Revival, and Victorian.

G. In addition to above standards design standards shall conform to Section 224-77 (where applicable).

§ 224-284. Landscaping and buffers. [Ord. No. 23-2007 § 224-284]

Landscaping and buffers shall conform to Section 224-71, Section 224-129 and Section 224-159 (where applicable).

§ 224-285. Parking. [Ord. No. 23-2007 § 224-285]

Parking requirements: Parking shall be determined by the requirements of Section 224-128. The actual parking need shall be determined by the number of employees intended to occupy the facility and the number of residents anticipated to occupy the units at peak periods. It is the obligation of the applicant to demonstrate to the Board actual need for parking by the presentation of parking generation studies from authorities on the subject of parking generation. The parking generation study shall include all commercial and residential units proposed at

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the site and what percentage will use public transportation. The parking generation study shall include a time schedule matrix of uses that will share on-site parking. Publications by the Institute of Transportation Engineers (ITE) or the American Planning Association (APA) or other professional associations will be considered.

The Planning Board may consider permitting up to a 30% reduction in required parking pursuant to Section 224-128 for a mix use commercial/residential development with affordable housing units proposed in the Train Station Platform Area within the Absecon Train Station Area Overlay provided the applicant can demonstrate with a parking generation study that patrons and residents will utilize the public transportation. Requests beyond such 30% reduction shall require variance relief.

The Planning Board may consider permitting a 20% reduction in required parking pursuant to Section 224-128 provided an area is reserved for expansion in the event the parking is determined to be necessary by the Planning Board or by the applicant at a future date. If the additional parking is pre-engineered and reviewed by the Planning Board and Planning Board's professionals at the time the original approval is granted, the additional parking can be constructed without returning to the Planning Board provided the additional parking is completed within five years of the original approval being granted. The construction of the additional parking is permitted provided the applicant informs the City Engineer in writing and posts an inspection escrow prior to actual construction taking place.

The New Jersey Residential Site Improvement Standards (RSIS) parking requirements apply to all proposed residential uses. Parking generation can include a shared parking arrangement for accessory uses. In the case were the applicant demonstrates that a reduction in parking is warranted, the planning board will support an application to NJDCA for a waiver from the parking RSIS parking requirements.

§ 224-286. Lighting. [Ord. No. 23-2007 § 224-286]

Lighting shall conform to Section 224-80 and Section 224-130, which includes the requirement to design lighting to prevent glare upon surrounding properties.

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APPENDIX E: Proposed Draft Accessory Apartment Ordinance

A. Accessory apartments. Accessory apartments are permitted within or outside the Affordable Housing Overlay District, subject to the following regulations:

(1) It is the specific purpose and intent of this section to allow accessory apartments on parcels of minimum size in conformance with the specific zoning district minimum lot size requirement to provide the opportunity for the development of affordable housing units to meet

(2) the needs of very-low-, low- and moderate-income residents. It is also the purpose of this limited, special-use provision to allow more efficient use of the City's existing stock of residential dwelling units and the City's existing stock of accessory buildings, to allow existing residents the opportunity to remain in large, underutilized houses by virtue of the added income for them from an accessory apartment, to allow accessory apartments in new attached and/or detached structures and to protect and preserve property values in the City of Absecon. To help achieve these goals to promote the other objectives of this chapter and of the Master Plan, and to implement the City's Housing Element and Fair Share Plan, the following specific standards and limitations are set forth for such accessory apartment use.

(3) Location and number of units: Location of units shall be permitted in the Residential Zoning Districts. The City is limited to the number of new permitted accessory apartments to allow up to 10 units, five of which shall be affordable to low-income households, with one of those five units being affordable to a very-low-income household.

(4) Size: The minimum floor area for an accessory apartment located within a principal structure shall be 650 square feet, but in no case shall it exceed the gross floor area of the existing principal structure on the lot.

(5) Other requirements:

(a) An accessory apartment unit will comply with the rest of the provisions of § 560-48.

(b) All standards and requirements of the zoning district, except as modified by this section, shall apply.

(c) An accessory apartment unit shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.

(d) Exterior appearance: An accessory apartment shall be located, designed, constructed, and landscaped so as to preserve the appearance of the principal building to the maximum extent feasible and further to enhance and not detract from the character of the principal building and the surrounding neighborhood. An accessory apartment shall have a separate, distinct entry which does not detract from the character of the principal building.

(e) The appropriate utility authority or Board of Health must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment.

(f) An accessory apartment unit shall, for a period of at least 10 years from the date of the issuance of a certificate of occupancy, be rented only to a very-low-, low-

or moderate-income qualified household as is defined by applicable Council on Affordable Housing ("COAH") and Uniform Housing Affordability Controls ("UHAC") regulations at the time of initial occupancy of the unit.

(g) The occupant must meet the established income limitations for very-low-, low-, and moderate-income households as specified by the rules and regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:93 et seq.).The accessory apartment must meet the adaptability law at P.L. 2005, c 350, if applicable.

(h) Rents of accessory apartments shall be affordable to very-low-, low-, and moderate-income households as per COAH and UHAC regulations.

(i) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale within the affordable housing requirements stated herein.

(j) Each accessory apartment shall have its own private entrance, living/sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.

(k) The accessory apartment shall have a separate door with direct access to the outdoors.

(l) or moderate-income qualified household as is defined by applicable Council on Affordable Housing ("COAH") and Uniform Housing Affordability Controls ("UHAC") regulations at the time of initial occupancy of the unit.

(m) The occupant must meet the established income limitations for very-low-, low-, and moderate-income households as specified by the rules and regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:93 et seq.).

(n) The accessory apartment must meet the adaptability law at P.L. 2005, c 350, if applicable.

(o) Rents of accessory apartments shall be affordable to very-low-, low-, and moderate-income households as per COAH and UHAC regulations.

(p) There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale within the affordable housing requirements stated herein.

(q) Each accessory apartment shall have its own private entrance, living/sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.

(r) The accessory apartment shall have a separate door with direct access to the outdoors.

(s) The accessory apartment shall be affirmatively marketed to the housing region in accordance with COAH regulations and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.

(t) Accessory apartment units are exempt from bedroom mix requirements in N.J.A.C. 5:93-7.3.

(u) A freestanding accessory building(s) containing accessory apartment units shall conform to the setback requirements for principal buildings in the district.

(6) Administration:

(a) Absecon City shall designate an administrative agent to administer the accessory apartment program.

(b) The administrative agent shall administer the accessory apartment program in accordance with the City's Affordable Housing Ordinance, which includes, but is not limited to, advertising, income qualifying prospective renters, settling rents and annual rental increases, maintaining a waiting list, distributing the subsidy, overseeing the securing of certificates of occupancy, qualifying properties, handing application forms, overseeing the filing deed restrictions, filing monitoring reports and affirmatively marketing the accessory apartment program.

(c) Applicants for the creation of an accessory apartment shall submit to the administrative agent:

[1] A sketch of floor plans showing the location, size, and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;

[2] Rough elevations showing the modification of any exterior building facade to which changes are proposed; and

[3] A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units and any man-made conditions which might affect construction.

(d) In accordance with the recommendations of the Court and Court-appointed Master, the City reserves the right to revisit this subsection from time to time, and to make appropriate adjustments to enhance the effectiveness of the Borough's Accessory Apartment Program.

APPENDIX F: Affordable Housing Ordinance

§ 224-194. Affordable housing. [Ord. No. 11-2008 § 224-194]

A. Short title. This section shall be known and may be cited as: Affordable Housing Ordinance of Absecon City.

B. Purpose. The Mount Laurel decisions stand for the principle that each municipality has a constitutional obligation to provide opportunities for the development of low- and moderate-income housing. The Mount Laurel decisions and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., dictate that every municipality in the State is required to provide opportunities for the development of its "fair share" of very low, low- and moderate-income housing. The purpose of this section is to advance the public welfare and comply with the municipality's constitutional obligation to provide the opportunity for the municipality's fair share of affordable housing.

C. Development required to provide affordable housing.

(1) Within any zoning district permitting residential development or as a result of a use variance permitting residential development, developers shall provide a minimum of one affordable housing unit for every four market rate housing units or the developer may make contribution in lieu of providing affordable housing in accordance with paragraph E.

(2) Developers within any zone permitting nonresidential development shall provide a minimum of one affordable housing unit for every 16 jobs created. The developer of the nonresidential development is required to construct affordable housing in the Absecon Train Station Area Overlay, or the developer may make a contribution in lieu of providing affordable housing in accordance with paragraph E.

(3) Within the Absecon Train Station Overlay Area, developers are required to provide affordable housing units if they avail themselves of the incentives set forth within Section 224-281, Density; Section 224-282, Building Coverage; Section 224-282, Impervious Coverage; Section 224-282, Building Height and Section 224-285, Parking Reduction. The development shall include a minimum of two affordable housing units for every eight market rate units [or a minimum of 25%]. Developers cannot make contributions in lieu of constructing affordable housing units in the Absecon Train Station Area Overlay.

D. Procedure.

(1) The units, once quantified, are specifically identified in the site plan, along with the support services required to sustain low- and moderate-income residences. It is the intent herein not only to encourage the development of affordable housing but also to encourage and sustain a quality of life for the low- and moderate-income residents within the proposed development.

(2) In preparing plans for low- and moderate-income housing, developers shall follow the following minimum criteria:

(a) Bedroom distribution of low- and moderate- income units:

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[1] A minimum 35% shall be two-bedroom units.

[2] A minimum 15% shall be three-bedroom units.

[3] A maximum 20% may be efficiency units.

(b) Pricing stratification for purchased housing shall be as follows:

Category	Percentage of Units	Affordability Range (Target Market) in Percentage of Median Income
Low	10	40 to 42.5
	30	42.6 to 47.5
	60	47.6 to 50
Moderate	10	50.1 to 57.5
	10	57.6 to 64.5
	10	64.6 to 68.5
	10	68.6 to 72.5
	20	72.6 to 77.5
	40	77.6 to 80

(3) In pursuing the development of low- and moderate-income housing, the Planning or Zoning Board may grant bulk variances and/or design waivers necessary to assist in adjusting the site plan configuration, thereby allowing the placement of disbursed low- and moderate-income housing within the limits of any specific project. This procedure will enable the City to work closely with the developer to tailor a specific site plan in the event that traditional zoning controls frustrate good site planning.

(4) The developer shall deed-restrict all newly constructed low- and moderate-income sales units for a period of not less than 30 years and provide copies of a Council On Affordable Housing adopted restrictive covenant and mortgage lien along with details of the methods of screening applicants to be used as part of the site plan review process.

(5) Prior to the issuance of the first certificate of occupancy for any development, the developer shall submit to the administrative agent as designated by City Council a list of all low- and moderate-income units to be developed. This list shall include:

(a) The unit number or address.

(b) The targeted income group.

(c) The number of bedrooms.

(d) The affordability range.

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(6) The designated administrative agent shall maintain a comprehensive file on low- and moderate-income housing units. Prior to the issuance of a certificate of occupancy or certificate of continued occupancy, a statement from the screening agent certifying the proposed occupant's eligibility shall be submitted to the designated administrative agent and maintained in the file.

(7) Affordable housing units to be built in accordance with the following schedule:

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

(8) Affirmative marketing. At the time of the initial occupancy of low- and moderate-income units the developer must demonstrate that an outreach and marketing program has been implemented to encourage participation of local persons in an attempt to see that up to 50% of the units be occupied by persons currently living or working in Absecon City.

(9) Prior to the issuance of a certificate of occupancy, the developer shall pay to the designated administrative agent any management or marketing fees adopted by the agency.

(10) Contributions in lieu of constructing affordable housing units on site shall only be used to fund eligible affordable housing activities within the Absecon Train Station Area Overlay (Article XXXIII).

(11) Contributions in lieu of constructing affordable units shall be deposited in a separate, interest-bearing housing trust fund.

E. Contribution in lieu of constructing affordable housing units.

(1) Within any zoning district permitting residential development or as a result of a use variance permitting residential development, developers may make a contribution of $35,000 (or an amount set by N.J.A.C. 5:94-5.4 Amount and duration of contributions, whichever is greater) per affordable housing unit in lieu of providing affordable housing.

(2) Developers within any zone permitting nonresidential development may make a contribution of $35,000 (or an amount set by N.J.A.C. 5:94-5.4 Amount and duration of contributions, whichever is greater) per affordable housing unit in lieu of providing affordable housing.

(3) Residential developments with less than eight market rate units or nonresidential

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developments creating less than 25 jobs shall make a pro-rata share contribution in lieu of constructing affordable housing.

F. Exemptions.

(1) Developers that have received preliminary subdivision or site plan approval prior to the effective date of this section shall be exempt from providing affordable housing unless the developer seeks a substantial change in the approval.

(2) Religious organizations that engage in construction activities for religious purposes shall be exempt from providing affordable housing.

(3) Development by public agencies, public hospitals, non-profit educational or religious institutions, charitable or not-for-profit entities legally established in accordance with the laws of the State of New Jersey shall be exempt from providing affordable housing.

G. Collection of contribution in lieu of constructing affordable housing.

(1) Developers shall pay 50% of the contribution to Absecon City at the issuance of permits.

(2) Developers shall pay the remaining contribution to Absecon City at the issuance of certificates of occupancy. The developer shall be responsible for paying the difference between the contribution at certificate of occupancy and the contribution made at the issuance of building permit.

(3) Contributions that are challenged shall be placed in an interest bearing escrow account by the municipality. If all or a portion of the contested contributions are returned to the developer, the accrued interest on the returned amount shall also be returned.

H. Housing trust fund.

(1) There is hereby created an interest bearing trust fund bank account with a bank to be named by City Council for the purpose of receiving contributions from residential and nonresidential developers. All contributions made by developers pursuant to this section shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan in accordance with paragraph I. below.

I. Use of funds.

(1) Money deposited in a housing trust fund shall be used for the construction of affordable housing and affordable housing activities in the Absecon Train Station Overlay Area. Contributions will be used to help fund affordable housing units and affordable housing activities in the Absecon Train Station Area Overlay (Article XXXIII). Allowable housing activities include, subsidies to reduce the cost of construction, assisting eligible buyers with closing costs, subsidize the improvements to infrastructure owned by the City of Absecon, i.e. streets, sidewalks in the City's right-of-way and administrative costs necessary to implement Absecon's housing element.

(2) Absecon will dedicate no more than 20% of contributions made for administrative purposes. Those purposes shall include but not necessarily be limited to salaries and

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benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program; a housing element; and an affirmative marketing program. These monies shall be spent either in the one-year period of protection sought by the City; during the implementation of the current plan which will extend beyond the one-year period of protection and/or during the period of implementation of any affordable housing plan for the third housing cycle.

J. Definitions. For definitions of terms in Article VIII, refer to Section 224-5, Definitions as amended.

K. Inconsistency. Any part or parts of any Ordinances which are found to be inconsistent with this section shall be deemed to have been repealed to the extent of such inconsistency.

L. Effective date. This section shall take effect upon passage and publication according to law and the filing of same with the County Planning Board in accordance with N.J.S.A.40:55D.

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APPENDIX G: Development Fee Ordinance

ORDINANCE 03-2025

CITY OF ABSECON

AN ORDINANCE AMENDING ORDINANCE 13-2018 – AN ORDINANCE REPEALING AND REPLACING SECTION 224-194 "AFFORDABLE HOUSING" OF THE CITY OF ABSECON'S LAND USE AND DEVELOPMENT ORDINANCE TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE CITY'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Council of the City of Absecon, Ordinance 03-2018 be amended as follows:

Replacing Subsection W. 1-4

Development Fee Ordinance.

1. Residential development fees.

   a. Imposition of fees. Within the City of Absecon, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee in accordance with the following:

      i. For each new residential dwelling unit that is constructed pursuant to an application for development before the Land Use Board, except for isolated lot variances pursuant to N.J.S.A. 40:55D-70c on an existing lot of record, a fee of 1% of the equalized assessed value of the residential development fee imposed for the purposes of funding the City's Affordable Housing Program.

      ii. For each new residential dwelling unit that is constructed on an existing lot of record which was not created as a result of an application for development before the Land Use Board, a fee of 0.5% of the equalized assessed value of the residential development fee imposed for the purposes of funding the City's Affordable Housing Program.

      iii. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

      i. Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the City of Absecon, shall be exempt from the payment of development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of this article shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a zoning permit and/or construction permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

iii. Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

iv. Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

2. Nonresidential development fees.

a. Developers of nonresidential development, as the term is defined in N.J.S.A. 40:55D-8.3, shall be obligated to comply with the requirements of the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., and pay the nonresidential development fee, as the term is defined in N.J.S.A. 40:55D-8.3, calculated pursuant to the Statewide Non-Residential Development Fee Act.

b. Developers of mixed-use development, as the term is defined in N.J.S.A. 40:55D-8.3, shall be required to comply with the requirements of the Statewide Non-Residential Development Fee Act for the portion of the development consisting of nonresidential development, as the term is defined in N.J.S.A. 40:55D-8.3, and with the requirements of § 233-97D and F, for the portion of the development consisting of residential development, provided that no affordable housing obligation shall be imposed which would result in an affordable housing obligation greater than that which would have been imposed if the residential development portion of the mixed-use development would have been development independently of the nonresidential portion of the mixed-use development.

3. Collection procedures.

a. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a construction permit.

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

c. The Construction Official responsible for the issuance of a construction permit shall notify the City Tax Assessor of the issuance of the first construction permit for a development which is subject to a development fee.

d. Within 90 days of receipt of such notification, the City Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

e. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the City Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

f. Within 10 business days of a request for the scheduling of a final inspection, the City Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g. Should the City of Absecon 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 § 37 of P.L. 2008, c.46 (N.J.S.A. 40:55D-8.6).

h. For any residential development fee imposed pursuant to § 233-97D, including any residential development fee imposed on the residential development portion of a mixed-use development (as the term is defined in N.J.S.A. 40:55D-8.3), 50% of the initially calculated residential development fee shall be collected at the time of issuance of the first construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of the certificate of occupancy.

i. For any nonresidential development fee, as the term is defined in N.J.S.A. 40:55D-8.3, imposed pursuant to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., including any nonresidential development fee imposed on the nonresidential development portion of a mixed-use development, as those terms are defined in N.J.S.A. 40:55D-8.3, the entire nonresidential development fee shall be collected at the time of the issuance of the certificate of occupancy.

j. Appeal of development fees.

i. 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 City of Absecon. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, 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.

ii. 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 City of Absecon. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, 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.

4. Affordable Housing Trust Fund.

a. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the City of Absecon for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

(a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by ordinance or by agreement with the City of Absecon;

(b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit 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 Absecon's affordable housing program.

c. In the event of a failure by the City of Absecon to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the City of Absecon, or, if not practicable, then within the county or the housing region. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

d. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

5. Ongoing collection of fees.

a. The ability for the City of Absecon to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the City of Absecon has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a Judgment of Compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

b. If the City of Absecon fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to § 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).

c. The City of Absecon shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the City of Absecon retroactively impose a development fee on such a development. The City of Absecon also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

Changing Subsection W title 5 to be numbered as title 6.

BE IT FURTHER ORDAINED that:

1. All Ordinances or parts of Ordinances inconsistent with the provision hereof, be and the same are hereby repealed and that this Ordinance shall take affect immediately after final passage and publication.

2. This Ordinance shall take effect upon final adoption and publication as required by law.

DATED: May 15th, 2025

SIGNED: _____
Thomas Marrone, Mayor

ATTEST: _____
Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on May 1st, 2025. Laid over and advertised for public hearing and final adoption on May 15th, 2025. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on May 15th, 2025.

APPENDIX H: Resolution Appointing the City's Municipal Housing Liaison

CITY OF ABSECON

RESOLUITON 189-2014

RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON FOR THE CITY OF ABSECON, COUNTY OF ATLANTIC

WHEREAS, the City of Absecon was granted a final judgment of compliance and repose of its Housing Element and Fair Share Plan by the NJ Superior Court on May 15, 2014; and

WHEREAS, the City of Absecon's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) and COAH's Substantive Rules (N.J.A.C. 5:97-1 et seq.); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq., the City of Absecon is required to appoint a Municipal Housing Liaison for the administration of the City of Absecon's affordable housing program to enforce the requirements of N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, the City of Absecon has amended Chapter 225 entitled Affordable Housing to provide for the appointment of a Municipal Housing Liaison to administer the City of Absecon's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the City of Absecon in the County of Atlantic, and the State of New Jersey that Jessica Snyder is hereby appointed by the Governing Body of the City of Absecon as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Section 225-27 of the City of Absecon's Code.

Dated: December 18, 2014

This is to certify this is a true copy of a Resolution adopted by the Council of the City of Absecon at a regular meeting held on December 18, 2014.

Attest: _____
Carie A. Crone, RMC, Municipal Clerk