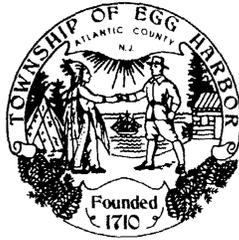


**TOWNSHIP OF EGG HARBOR**  
ATLANTIC COUNTY, NEW JERSEY



## Housing Element & Fair Share Plan

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**December 2008**

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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 Egg Harbor Township Planning Board

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## **Introduction**

The Township has prepared a Master Plan Housing Element (including a Fair Share Element) in accordance with the requirements set forth in the “Municipal Land Use Law” (N.J.S. 40:55D) and Fair Housing Act (N.J.S. 52:27D-301). In accordance with the above statutory requirements, this Housing Element is designed to achieve the goal of accessibility to affordable housing to meet both present and prospective needs, with particular attention to low and moderate income housing.

In accordance with the statutory requirements, this housing element includes the municipality’s strategy for addressing its present and prospective need via the following:

- a) An inventory of the Township’s housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- b) A projection of the Township’s housing stock, including the probable future construction of low and moderate income housing through December 1, 2018 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 Township’s demographic characteristics including, but not limited to, household size, income level and age;
- d) An analysis of existing and probable future employment characteristics of the Township;
- e) A determination of the Township’s present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective needs, including its fair share for low and moderate income housing;
- f) A consideration of 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;

In addition, COAH regulations call for certain additional information listed below:

- a) The household projection for the Township as provided in N.J.A.C. 5:97 Appendix F;
- b) The employment projection for the Township as provided in N.J.A.C. 5:97 Appendix F;
- c) The Township’s prior round obligation as provided in N.J.A.C. 5:97 Appendix C;
- d) The Township’s rehabilitation share as provided in N.J.A.C. 5:97 Appendix C;
- e) The Township’s growth share in accordance with N.J.A.C. 5:97-2.4

Through this Housing Element and Fair Share Plan, the Township promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the Township’s existing housing stock, and formally acknowledges the constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of low and moderate income. This document also serves then as a basis for the implementation of land use regulation by Egg Harbor Township to enable satisfaction of the aforementioned affordable housing constitutional obligation.

*The Council on Affordable Housing*

The 1985 Fair Housing Act created the Council on Affordable Housing (COAH) to provide an administrative alternative to the courts in reviewing and mediating municipalities fair housing obligations. COAH is responsible for adopting regulations to enable municipalities to ascertain their fair share responsibilities. In conjunction with these responsibilities, COAH has taken a “growth share” approach to the responsibilities of municipalities for the third housing cycle. COAH has adopted new regulations for the third cycle earlier this year. These new regulations contain three critical components, Prior Round Obligation (cumulative 1987-1999 fair share obligation established in N.J.A.C. 5:97 Appendix C), Rehabilitation Share (established in N.J.A.C. 5:97 Appendix B) and the Growth Share Obligation January 1, 2004 to December 31, 2018 (formulas devised by COAH for residential and non-residential growth).

**Background**

*Demographic Characteristics:*

As indicated above, the Municipal Land Use Law requires an analysis of housing and demographic data as part of any Housing Element. The 2000 Census is the most recent available comprehensive database of this type of information for Egg Harbor Township. In addition population estimates for 2005 are available from the U.S. Census Bureau.

Table I below provides a comparison of population change in Egg Harbor Township, Atlantic County and the State of New Jersey.

**Table I  
Egg Harbor Township, Atlantic County and New Jersey  
Population Changes: 1940-2005**

Year	Egg Harbor Twp.		Atlantic County		New Jersey	
	Number	Change	Number	Change	Number	Change
1940	3,066	-----	124,066	-----	4,160,165	-----
1950	4,991	62.3%	132,399	6.7%	4,835,329	16.2%
1960	5,593	12.1%	160,880	21.5%	6,066,782	25.5%
1970	9,882	76.7%	175,043	8.8%	7,168,164	18.7%
1980	19,381	96.1%	194,119	10.9%	7,365,011	2.7%
1990	25,544	26.6%	224,327	15.6%	7,730,188	5.0%
2000	30,726	25.2%	252,552	12.6%	8,414,350	8.9%
2007 (est.)	39,493	28.5%	270,644	7.2%	8,685,920	3.2%

Source: 2000 Census Data  
U.S. Census Bureau

The age distribution within the Township indicates a 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 Township that are occupied by younger families. Approximately 17.9% of the population was over 55 years of age in 2000, compared with Atlantic County at 22.6% and the State of New Jersey at 22.7%. The distribution of ages of persons in the Township is indicated in Table II.

**Table II  
Egg Harbor Township  
Population by Age Group: 1990-2000**

	1990		2000	
	Number	Percent	Number	Percent
Total Population	25,544	100%	30,726	100%
Sex				
-Male	11,999	46.6%	14,934	48.6%
-Female	12,545	53.4%	15,792	51.4%
Age				
Under 5	1,868	7.6%	2,278	7.4%
5-9 Years	1,673	6.8%	2,714	8.8%
10-14 Years	1,752	7.1%	2,332	7.6%
15-19 Years	1,821	7.4%	1,881	6.1%

20-24 Years	1,580	6.4%	1,399	4.6%
25-34 Years	4,694	19.1%	4,176	13.6%
35-44 Years	4,413	18.0%	5,854	19.1%
45-54 Years	2,591	10.6%	4,610	15.0%
55-59 Years	923	3.8%	1,589	5.2%
60-64 Years	930	3.8%	1,078	3.5%
65-74 Years	1,459	5.9%	1,629	5.3%
75-84 Years	696	2.8%	912	3.0%
85+ Years	144	0.6%	274	0.9%

Source: 2000 Census Data  
1990 Census Data

Non-family households make up 27.6% of the households in Egg Harbor Township. This is lower than the County rate of 33.5% and slightly lower than the State average 29.7%. The average household size in Egg Harbor Township is 2.74 persons/dwelling unit while the County average is 2.59 and the State average is 2.68, making the average household in Egg Harbor Township larger than that of the County and State.

**Education:**

Within Egg Harbor Township's adult population (25 and over) 82.8% have received a high school diploma and 19% received a bachelor's degree or higher making the Township slightly better educated than the rest of Atlantic County. When compared to the County, 78.2% of the adult population has received a high school diploma and 18.7% of the adult population has received a bachelor's degree or higher.

**Age of Housing:**

Table III depicts the number of new housing units constructed between 1990 and 2000 for the Township, County and State.

**Table III  
Egg Harbor Township, Atlantic County and New Jersey  
Housing Units: 1990 & 2000**

Jurisdiction	Housing Units 1990	Housing Units 2000	Increase	% Increase
Egg Harbor Twp.	10,018	12,067	2,049	20%
Atlantic County	106,877	114,090	7,213	6%
New Jersey	3,075,310	3,310,275	234,965	7%

Source: 2000 Census Data  
1990 Census Data

As of 2000, approximately 54% of the Township current housing stock was constructed prior to 1980, with 3.9% constructed prior to 1940. The Township therefore has what can be considered a newer housing stock, reflective of the recent population growth in the Township. The age of housing stock can be used as a gauge of the overall condition of housing in the community. In the case of Egg Harbor Township a large percentage of homes have been constructed in recent years and therefore have not endured the 'wear and tear' that typically takes place over years.

**Housing Tenure:**

The 2000 Census data indicates that 11,199 housing units (92.8%) in the Township were occupied on April 1, 2000 and units (7.2%) were vacant. A total of 9,505 units (84.9%) of the occupied units are owner occupied with the additional 1,694 units (15.1%) occupied by renters.

**Table IV  
Egg Harbor Township  
Housing Tenure: 1990 & 2000**

Egg Harbor Township	1990 Units	1990 % of Total	2000 Units	2000 % of Total
Total Housing Units	10,018	100%	12,067	100%
Occupied Housing				

Units				
-Owner Occupied	7,633	84.2%	9,505	84.9%
-Renter Occupied	1,435	15.8%	1,694	15.1%
-Total	9,068	100%	11,199	100%
Vacant Housing Units	950	9.5%	868	7.2%
Seasonal, Recreational Use	326	3.2%	308	2.6%
Rental Vacancy Rate	13.7%	N/A	6.9%	N/A
Household Size				
-Owner Occupied	2.76	N/A	2.81	N/A
-Renter Occupied	2.42	N/A	2.36	N/A

Source: 2000 Census Data  
1990 Census Data

*Physical Character of the Township Housing Stock*

Table V provides an inventory of the housing stock.

**Table V**  
**Egg Harbor Township**  
**Inventory of Housing Age: 2000**

Year(s) Constructed	Number	Percent of Total
1999-March 2000	625	5.2%
1995-1998	1,098	9.1%
1990-1994	1,045	8.7%
1980-1989	2,770	23.0%
1970-1979	3,393	28.2%
1960-1969	1,703	14.1%
1940-1959	950	7.9%
1939 or earlier	462	3.8%

Source: 2000 Census Data

In 2000, the median value of owner occupied units in Egg Harbor Township was \$131,300. It is safe to assume that median home value has increased since the release of the 2000 Census. While Egg Harbor Township's average median home value is greater than that of Atlantic County, it significantly lags behind the rest of New Jersey.

**Table VI**  
**Egg Harbor Township, Atlantic County and New Jersey**  
**Median Home Values: 1990 & 2000**

Median Home Value	1990	2000	Percent Increase
Egg Harbor Township	\$105,200	\$131,300	24.8%
Atlantic County	\$105,900	\$122,000	15.2%
New Jersey	\$162,300	\$170,800	5%

Source: 2000 Census Data  
1990 Census Data

As noted in Table VII the majority of the owner occupied units are valued at less than \$150,000. Of the 7,398 units reported in the 2000 Census 65% were valued at less than \$150,000.

**Table VII**  
**Egg Harbor Township**  
**Home Value of Specified Owner Occupied Units: 2000**

Value of Specified Owner Occupied Units	Number of Units	Percent of Total
Less than \$50,000	130	1.8%
\$50,000-\$99,999	1,589	21.5%

\$100,000-\$149,999	3,086	41.7%
\$150,000-\$199,999	1,543	20.9%
\$200,000-\$299,999	832	11.2%
\$300,000-\$499,999	175	2.4%
\$500,000-\$999,999	43	0.6%
Over \$1,000,000	0	0%

Source: 2000 Census Data

As noted in Table VIII the majority of the gross rents charged were less than \$750.00 per month. Of the 1701 rental units reported in the 2000 Census, 53.1% of the units were rented at less than \$750.00.

**Table VIII**  
**Egg Harbor Township**  
**Gross Rent of Specified Renter Occupied Units: 2000**

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than \$200.00	23	1.4%
\$200.00-\$299.00	20	1.2%
\$300.00-\$499.00	284	16.7%
\$500.00-\$749.00	575	33.8%
\$750.00-\$999.00	493	29.0%
\$1,000.00-\$1,499.00	189	11.1%
\$1,500 or more	44	2.6%
No cash rent	73	4.3%

Source: 2000 Census Data

The median gross rent in Egg Harbor Township was \$700.00 in 2000. The median rent is marginally higher than that of Atlantic County and marginally lower than the New Jersey average.

**Table IX**  
**Egg Harbor Township, Atlantic County and New Jersey**  
**Median Rents: 1990 & 2000**

Median Rent	1990	2000	Increase
Egg Harbor Township	\$523.00	\$700.00	33.8%
Atlantic County	\$503.00	\$677.00	34.6%
New Jersey	\$419.00	\$751.00	79%

Source: 2000 Census Data

1990 Census Data

Single family detached homes remain the dominant housing structure in the Township, representing 68.2% of total housing units. In addition mobile homes account for 15.3% of the housing structures in the Township.

**Table X**  
**Egg Harbor Township**  
**Types of Dwelling Units: 2000**

Type of Unit	Number of Units	Percent of Total
1-Unit; detached	8,213	68.2%
1-Unit; attached	415	3.4%
2 Units	101	0.8%
3 or 4 Units	289	2.4%
5 to 9 Units	414	3.4%
10 to 19 Units	389	3.2%
20 or more Units	270	2.2%
Mobile Homes	1,849	15.3%
Boat, RV, van, etc.	106	0.9%
<b>Total</b>	<b>12,046</b>	<b>100%</b>

Source: 2000 Census Data

*Condition of Housing in Egg Harbor Township:*

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

**Table XI  
Egg Harbor Township  
Condition of Housing: 2000**

<b>Characteristic</b>	<b>Number of Units</b>
Overcrowded (> 1 person per room)	444
Total Units lacking complete plumbing	38
Total Units lacking complete kitchen	83

*Source: 2000 Census Data*

According to the 2000 Census, the 2000 median household income in Egg Harbor Township was \$52,500. Additionally, there were 337 families (4.2%) identified as living below the poverty level. COAH usually looks into these substandard indicators as likely places where lower income families may live, despite the low number of units.

*Units Affordable to Low and Moderate Income Households*

Using data from the 2000 Census, the opportunities for low and moderate income households to participate in the Township housing market was evaluated. A moderate income household is defined as having a gross income equal to or greater than 50% but less than 80% of the median eligible household income. Low income households could earn up to 50% of the median income and very-low income households are classified as earning less than 30% of the median area income. The median household income in Egg Harbor Township in 2000 was \$52,500.00.

The Council on Affordable Housing has established that owner occupied households should pay no more than 28% of gross monthly income for household expenses, while renter-occupied households should pay not more than 30% of their gross monthly income for household expenses. The percentages do not include expenditures for utilities. According to these requirements, affordable housing prices in the Township are listed in the tables below.

**Table XII  
Council on Affordable Housing  
2008 Regional Income Limits**

	<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
<b>Median</b>	\$45,355	\$51,834	\$58,314	\$64,793	\$69,976	\$75,160	\$80,343	\$85,527
<b>Moderate</b>	\$36,284	\$41,468	\$46,651	\$51,834	\$55,981	\$60,128	\$64,275	\$68,421
<b>Low</b>	\$22,678	\$25,917	\$29,157	\$32,397	\$34,988	\$37,580	\$40,172	\$42,763
<b>Very Low</b>	\$13,607	\$15,550	\$17,494	\$19,438	\$20,993	\$22,548	\$24,103	\$25,658

*Source: Council on Affordable Housing*

Based upon the average household size of 2.74 in Egg Harbor Township in 2000 and the regional income limits as provided by COAH, the median income in Region 6 for Egg Harbor Township in 2006 is \$58,314. At a minimum 1,500 owner occupied units and 1,395 renter occupied units could be considered affordable to three person very low, low and moderate income households as indicated in Table XIII. Of the 1,500 owner occupied units 67 could be considered affordable to three person low income households, 43 of the 1,395 renter occupied units could be considered to be affordable to a three person very low income household and 284 of the 1,395 renter occupied units could be considered affordable to a three person low income household. It should be noted that the estimated numbers of affordable units are affordable only in a market setting and not affordable in accordance with COAH requirements. Based upon these numbers approximately 24% of the 12,067 units in the Township in 2000 are potentially affordable. Of these, a minimum of 110 units representing approximately 1% could be affordable to very low and low income households with the remaining 2,785 units representing approximately 23% could be affordable to moderate income households. Although these figures are estimates and assumptions regarding household size have been made, it appears that the Township has significant numbers of affordable units.

**Table XIII**  
**Egg Harbor Township**  
**Estimate of 2000 Housing Units Affordable to Low & Moderate Income Households Based on Census**  
**Information for Median Income, Mortgage and Rental Information**

<b>Income Level</b>	<b>Annual Income</b>	
Median Household Income	\$58,314	
Moderate Income	\$29,157.01-\$46,651.20	
Low Income	\$17,494.20 - \$29,157.00	
Very Low Income	<17,494.20	
<b>Income Level</b>	<b>Affordable Monthly Rent</b>	<b>Affordable Monthly Mortgage</b>
Moderate Income	\$728.93-\$1,166.28	\$680.33-\$1,088.53
Low Income	\$437.36-\$728.93	\$408.20-\$680.33
Very Low Income	<\$437.36	<\$408.20
<b>Mortgage Status and Selected Owner Costs:</b>	<b>Number of Units</b>	<b>Affordability</b>
<b>Owner Occupied Units with a Mortgage</b>		
Less than \$300.00	--	--
\$300.00-\$499.00	--	--
\$500.00-\$699.00	67	Some Very Low & some Low Incomes
\$700.00-\$999.00	333	Some Low & some Moderate Incomes
\$1,000.00-\$1,499.00	1,100	Moderate Incomes
\$1,500.00-\$1,999.00	2,742	Some Moderate Incomes
\$2000.00 or more	1,473	Not Affordable
Not Mortgaged	534	Not Affordable
	1,149	Not Applicable
<b>Renter Occupied Housing Units</b>		
Less than \$200.00	--	<b>Affordability</b>
\$200.00-\$299.00	23	Very Low Income
\$300.00-\$499.00	20	Very Low Income
\$500.00-\$749.00	284	Some Very Low and some Low Income
\$750.00-\$999.00	575	Some Low and some Moderate Income
\$1,000-\$1,499.00	493	Moderate Income
\$1,500 or more	189	Some Moderate Income
No Cash Rent	44	Not Affordable
	73	Not Applicable

Source: 2000 Census Data

**Housing Stock Projection:**

Projection of probable future housing for the next fourteen years (January 1, 2004 through December 31, 2018):

COAH has prepared estimates of the projected increase in housing for each municipality in the State as indicated in N.J.A.C. 5:97 Appendix F. COAH has predicted an increase of 3,697 dwelling units within the Township between 2004 and 2018 for a total projected number of dwelling units of 17,417 by the end of 2018.

*Analysis of Existing Employment:*

The 2000 Census data indicates that the civilian labor force (16 years and older) for Egg Harbor Township and Atlantic County in 2000 were 16,367 and 125,456 respectfully. The Egg Harbor Township civilian labor force represents 13% of the County civilian labor force. In 2000, the percent of the persons age 16 and over in the civilian labor force in Egg Harbor Township was 71.6%. This average is higher than the County average of 64.3%. The Township had a lower unemployment rate than the County, rates were 3.0% (684 persons) and 4.8% (9,405 persons) respectfully.

The Census data distribution of occupational positions in Egg Harbor Township generally reflects that of Atlantic County and the State. The largest difference, at the State level, comes in the service occupations. Approximately

27.3% of Egg Harbor Township’s labor force works in service occupations compared to 13.6% of the State. This is primarily due to the casino industry as well as the tourist industry in Atlantic County.

**Table XIV  
Egg Harbor Township and Atlantic County  
Civilian Labor Force Characteristics: 2000**

	<b>Egg Harbor Twp.</b>		<b>Atlantic County</b>	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	16,367	71.6%	125,456	64.3%
-Employed	15,683	68.6%	116,051	59.5%
-Unemployed	684	3.0%	9,405	4.8%

Source: 2000 Census Data

**Table XV  
Egg Harbor Township, Atlantic County and New Jersey  
Occupation Distribution: 2000**

<b>Occupation</b>	<b>Egg Harbor Twp.</b>	<b>Atlantic County</b>	<b>New Jersey</b>
Management, Professional and other related occupations	26.7%	25.6%	38%
Service Occupations	27.3%	30.3%	13.6%
Sales and Office	25.9%	26.0%	28.5%
Farming, Fishing, and Forestry	0.01%	0.04%	0.02%
Construction, Extraction and Maintenance Occupations	10.9%	8.6%	7.8%
Production, transportation and material moving occupations	9.2%	9.1%	12%

Source: 2000 Census Data

In 2000, the median income in Egg Harbor Township was \$52,500. However, there is a wide range of income levels, as 13.7% of the population make over \$100,000 and 18.2% make under \$25,000. The distribution of household incomes is indicated in Table XVI.

**Table XVI  
Egg Harbor Township  
Household Income: 2000**

<b>Household Income</b>	<b>Number</b>	<b>Percent</b>
Under \$10,000	615	5.5
\$10,000-\$14,999	504	4.5
\$15,000-\$24,999	916	8.2
\$25,000-\$34,999	1,274	11.4
\$35,000-\$49,999	1,903	17.1
\$50,000-\$74,999	2,792	25.1
\$75,000-\$99,999	1,604	14.4
\$100,000-\$149,999	1,128	10.1
\$150,000-\$199,999	246	2.2
Over \$200,000	153	1.4

Source: 2000 Census

*Analysis of Future Employment:*

As mentioned in the ‘Analysis of Existing Employment’ section, data from the 2000 Census data indicates a civilian labor force (those in the population above the age of 16) of 16,367, of which 15,683 were employed. Classifications of workers by occupation distribution can be referenced in Table XVII which lists occupation by industry of workers in the Township.

**Table XVII**  
**Egg Harbor Township**  
**Employment Classification: 2000**

Industry	Number of Employees	% of Total Employed
Education, health and social services	2,962	18.9
Arts, Entertainment, Recreation, Accommodation and Food Service	4,259	27.2
Retail Trade	1,886	12.0
Public Administration	937	6.0
Construction	1,241	7.9
Finance, Insurance, Real Estate, and Rental/Leasing	612	3.9
Professional, Scientific, management, administrative, and waste management services	1,007	6.4
Transportation and warehousing, and utilities	819	2.1
Manufacturing	557	3.6
Information	335	2.1
Agriculture, Forestry, Fishing, Hunting and Mining	32	0.2
Wholesale Trade	431	2.7
Other services	605	3.9

Source: 2000 Census

Under COAH ‘Third Round’ growth share rules, one unit of affordable housing is to be generated for every sixteen jobs created by non-residential construction occurring from January 1, 2004 to December 31, 2018.

COAH has prepared estimates of the projected increase in employment for each municipality in the State as indicated in N.J.A.C. 5:97 Appendix F. COAH has predicted an increase of 6,885 jobs within the Township between 2004 and 2018 for a total projected number of jobs of 19,609 by the end of 2018.

### **Present and Prospective Affordable Housing Needs**

The New Jersey Council on Affordable Housing determined the Township’s prior obligation (1987-1999) of 763 units to meet its regional low and moderate income housing obligation. All of the units to meet the prior obligation are new units. In addition COAH has assigned a rehabilitation share of 100 units for the period January 1, 2004 through January 31, 2018. Rehabilitation share units are both deficient and occupied by low and moderate income households; deficient housing has health and safety code violations that require the repair or replacement of a major system.

With the recent implementation of COAH’s Third Round Methodology, COAH has adopted a growth methodology in determining a municipality’s obligation to meet affordable housing. Municipality’s are assigned an affordable housing obligation based on a percentage of future residential and non-residential growth. Growth is measured from January 1, 2004 through December 31, 2018 and is based on Certificates of Occupancy issued for residential and non-residential development. The following depict ratios in determining housing requirements:

Residential: For every five market rate houses units built in a municipality, one affordable unit must be provided.

Non-Residential: For every sixteen jobs created, one affordable unit must be provided. Job growth is measured by square feet of non-residential construction.

Round Three Rules: The adopted Round Three rules, effective June 2, 2008 with amendments through October 20, 2008, and covering the period January 1, 2004 through December 31, 2008, mandates that each municipality’s obligation consist of a rehabilitation component, a prior round obligation component, and a growth share component. COAH assigned Egg Harbor Township the following obligations:

- 100 rehabilitation units;
- 763 prior obligation units;

- 1,170 growth share units;
  - 739.40 – Residential Component
  - 430.31 – Non-Residential Component
- 2,033 total obligation with 1,933 new units.

In accordance with N.J.S.A. 52:27D-301 et seq., “No municipality shall be required to address a fair share of housing units affordable to households with a gross household income of less than 80% of the median gross household income beyond 1,000 units within ten years from the grant of substantive certification, unless it is demonstrated, following objection by an interested party and an evidentiary hearing, based upon the facts and circumstances of the affected municipality that it is likely that the municipality through its zoning powers could create a realistic opportunity for more than 1,000 low and moderate income units within that ten-year period. For the purposes of this section, the facts and circumstances which shall determine whether a municipality’s fair share shall exceed 1,000 units, as provided above, shall be a finding that the municipality has issued more than 5,000 certificates of occupancy for residential units in the ten-year period preceding the petition for substantive certification in connection with which the objection was filed.”

It should be noted that COAH has defined, in N.J.A.C. 5:97-1.4, “1,000-unit limitation means a cap of the prior round or projected growth share obligation, pursuant to the Act, where no municipality shall be required to address its fair share beyond 1,000 units within 10 years from the grant of substantive certification.”

The Township believes that the interpretation of the New Jersey Fair Housing Act by COAH is incorrect and the 1,000 unit cap should be applied to the entire fair share obligation as opposed to either a prior round obligation or a growth share obligation.

Notwithstanding COAH’s erroneous interpretation of the 1,000 unit cap legislation, the Township has, out of an excess of caution, developed an affordable housing plan to address a 1,000 unit growth share obligation as opposed to a 1,000 fair share obligation. Nothing herein shall be construed to intend that the Township is in any way compromising its rights to claim that COAH’s recent thousand unit cap regulations are illegal.

In accordance with the statute, in order for the 1,000 unit cap to be applied the municipality can not have issued more than 5,000 certificates of occupancy for residential units in the preceding ten years. The following table indicates the number of certificates of occupancy for residential units that have been issued from January 1, 1997 through December 31, 2007 is 3,778.

**Table XVIII**  
**Egg Harbor Township**  
**Certificates of Occupancy (C.O.) for Residential Construction: 1997-2007**

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
C.O.	187	155	140	311	239	320	515	377	494	548	492	3778

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

**Lands most Appropriate for Affordable Housing**

In general, sites that are most appropriate for affordable housing are those that have the necessary infrastructure and are not encumbered by environmental constraints. Within the Township the Regional Growth Area located within the Pinelands as well as Planning Area 1 and Planning Area 2 within the CAFRA portion of the Township are appropriate locations for affordable housing. These are the areas that the State has, for the most part, encouraged growth.

Specifically sites within the RG-4 Zone, RG-5 Zone and the R-5 Apartment Residential Zone are most appropriate for affordable housing, since multifamily dwellings are permitted.

## Affordable Housing and Fair Share Plan

In 1975, in the case Southern Burlington County NAACP v. Township of Mt. Laurel (Hereinafter “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 court’s 1983 Mt. Laurel II decision 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 SDGP. As such, through a municipality’s zoning and land use regulations, it is to be realistically possible, through provision 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 so choose – in the Township of Egg Harbor.

The purpose of this plan is to outline efforts to be taken by Egg Harbor Township to provide for the fair share of affordable housing COAH assigned for the period ending December 31, 2018. This plan must be in a form that can readily be adopted into an ordinance that complies with the Council on Affordable Housing (COAH) rules. The plan in general shall require that at least fifty percent of all lower income units be affordable to low income residents.

### Housing Strategy:

The housing strategy outlined herein addresses the Township’s prior obligation of 763 units and 100 rehabilitation units, and the third round cap of 1,000 units thereby satisfying the Township’s affordable housing obligations. Below are options the Township’s has to address the affordable housing obligations.

1. Rehabilitation - 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.

The Council on Affordable Housing has determined a rehabilitation component of 100 units. The rehabilitation plan targets the 100 units and is phased over period ending December 31, 2008. The Township presently participates in the Atlantic County Improvement Authority’s Housing Rehabilitation Program. Under this program 65 units have been rehabilitated from April 1, 2000 to December 31, 2007. The total expenditure on the rehabilitations since April 1, 2000 for these 65 units was \$750,301.72 which equates to an average of \$11,543.10 per unit. The Township intends to seek credit for 65 units for rehabilitation credits as COAH requires an \$8,000 average per unit for units rehabilitated on or after April 1, 2000 and before December 20, 2004 and requires a \$10,000 average per unit for units rehabilitated on or after December 20, 2004 and before June 2, 2008. As indicated in Table XVIV, the average amount spent on the rehabilitation of 45 housing units in the Township from April 1, 2008 through December 19, 2004 was \$8,413.95, exceeding the \$8,000 per unit as required by COAH. As indicated in Table XX, the average amount spent on the rehabilitation of 23 housing units in the Township from December 20, 2004 through April 22, 2008 was \$16,159.74, exceeding the \$10,000 per unit as required by COAH. It should be noted that the units at addresses 2, 22 and 25 received funds for rehabilitations during both periods. The Township has therefore satisfied 65 of the 100 unit rehabilitation obligation.

**Table XVIV**  
**Egg Harbor Township**  
**Housing Rehabilitations: April 1, 2000-December 19, 2004**

Address	Date	Amount
Address 1	4/4/01	\$11,605.00
Address 2	11/12/04	\$2,995.00
Address 3	9/23/02	\$2,520.00
Address 4	11/10/03	\$1,650.00

Address 5	3/28/02 6/17/02	\$18,044.00
Address 6	4/16/01	\$12,250.00
Address 7	11/24/04	\$2,804.32
Address 8	6/14/01	\$16,320.00
Address 9	6/25/02	\$720.00
Address 10	3/28/02 6/13/02 1/9/03	\$11,341.00
Address 11	6/17/02 5/7/03	\$13,775.00
Address 12	9/14/00	\$16,732.00
Address 13	5/26/04 9/20/04 9/20/04	\$18,207.50
Address 14	2/16/01	\$14,575.00
Address 15	1/28/03	\$5,685.00
Address 16	1/7/04	\$2,225.00
Address 17	6/17/04 9/10/04	\$7,709.50
Address 18	11/20/00	\$3,300.00
Address 29	7/25/03	\$2,820.00
Address 20	3/27/01	\$1,975.00
Address 21	9/8/04	\$498.50
Address 22	12/17/02 3/18/03	\$8,729.00
Address 23	6/21/02	\$16,180.00
Address 24	9/17/04 10/27/04	\$4,796.00
Address 25	1/23/04	\$2,393.00
Address 26	8/14/02 3/28/03 6/26/03	\$21,146.00
Address 27	10/24/02 2/6/03	\$17,318.00
Address 28	10/28/02	\$1,750.00
Address 29	12/12/00	\$15,423.90
Address 30	4/23/04	\$1,800.00
Address 31	9/25/02	\$10,315.00
Address 32	11/13/02	\$11,050.00
Address 33	12/16/02 3/31/03	\$17,503.50
Address 34	12/20/04	\$5,255.50
Address 35	10/1/01	\$3,338.00
Address 36	10/13/03	\$1,780.00
Address 37	3/31/04 6/10/04	\$4,137.50
Address 38	12/3/01	\$7,425.00
Address 39	3/8/01	\$9,000.00
Address 40	11/18/02	\$2,275.00
Address 41	4/5/01	\$10,305.00

Address 42	4/12/01	\$12,625.00
Address 43	8/27/02 11/22/02	\$9,443.00
Address 44	10/1/03 1/14/04	\$12,387.50
Address 45	12/1/03	\$4,500.00
Total Amount spent		\$378,627.72
Average Amount Spent/unit		\$8,413.95

Source: Atlantic County Improvement Authority

**Table XX**  
**Egg Harbor Township**  
**Housing Rehabilitations: December 20, 2004-April 22, 2008**

Address	Date	Amount
Address 2	2/7/05	\$8,300.00
Address 47	6/14/05	\$3,890.00
Address 48	1/19/05 5/12/05	\$14,750.00
Address 49	3/12/05 6/29/05	\$11,925.00
Address 22	1/5/05	\$16,525.00
Address 50	4/18/05	\$18,770.00
Address 25	4/22/2005 2006	\$30,060.00
Address 51	4/22/05	\$6,300.00
Address 52	2007	\$21,615.00
Address 53	2007	\$22,175.00
Address 54	2007	\$19,525.00
Address 55	2006	\$19,650.00
Address 56	2007	\$15,175.00
Address 57	2006	\$5,900.00
Address 58	2007	\$21,775.00
Address 59	2006	\$19,250.00
Address 60	2006	\$23,800.00
Address 61	2006	\$23,534.00
Address 62	2006	\$14,650.00
Address 63	2006	\$19,450.00
Address 64	2006	\$7,200.00
Address 65	2008	\$13,675.00
Address 66	2008	\$16,850.00
Total Amount spent		\$371,674.00
Average Amount Spent/unit		\$16,159.74

Source: Atlantic County Improvement Authority

The Township will continue to participate in the Atlantic County Improvement Authority's Housing Rehabilitation Program. Based upon the programs past success and utilizing an average of 7.67 units per year, based upon the number of units that have been rehabilitated from January 1, 2000 through April 22, 2008, it is

anticipated that an additional 77 units will be rehabilitated by December 31, 2018. Therefore, it is estimated that a total of 142 units will have been rehabilitated from April 1, 2004 through December 31, 2018.

**Table XXI**  
**Egg Harbor Township**  
**Housing Rehabilitations: 2000-2008**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total	Average/year
Rehabilitations	8	10	16	6	9	5	8	5	2	69	7.67

Note: Multiple Rehabilitations have been counted once for averaging purposes

Source: Atlantic County Improvement Authority

As indicated in N.J.A.C.5:976.1(b)6, “A municipal rehabilitation program shall provide for the rehabilitation of rental units. If a municipality participates in a County rehabilitation program that is solely for owner occupied units, the municipality shall establish a rehabilitation program.” Since the Rehabilitation program administered by the Atlantic county Improvement Authority is solely for owner occupied unit the Township will establish a program for the rehabilitation of rental units.

The Township will utilize funds from its affordable housing trust fund in the amount of \$24,000.00 for the purposes of establishing a rental rehabilitation program with a minimum of \$10,000.00 per unit to be used exclusively for hard costs associated with the rental unit rehabilitation. The rehabilitation program requirements will be in accordance with N.J.A.C. 5:97-6.2. The Township may expand the program based upon the success of the program.

Therefore, based upon the anticipated owner occupied rehabilitations through the program administered by the Atlantic County Improvement Authority and the proposed Township rental rehabilitation program, the Township’s rehabilitation requirement of 100 units will be satisfied by December 31, 2008. It is anticipated that 144 units will have been rehabilitated in the Township from April 1, 2004 through December 31, 2018.

2. Credits Without Controls - The Fair Housing Act and COAH regulations state that a municipality is entitled to a one-for-one credit for an existing private market unit constructed without government assistance provided certain conditions are satisfied. Specifically, it is a mechanism applicable for units that were issued a certificate of occupancy between April 1, 1980 and December 15, 1986.

It is the Township’s intent to survey the housing units established during this time to determine if the current occupants are within COAH’s income guidelines. Based upon information contained in the tax records approximately 1,298 units were constructed during this period. Of the 1,298 units, 803 are assessed with housing values less than \$114,000.00. Of the 803 units, 190 are not owner occupied. It is anticipated that 184 (30%) of the owner occupied units will satisfy the requirements for credits without controls and 38 (20%) of the non-owner occupied units will satisfy the requirements for credits without controls as rental units for a total of 222 units.

3. Supportive and Special Needs Housing Credits - In accordance with N.J.A.C. 5:97-4.3(c) “A municipality may receive one credit for each bedroom in supportive and/or special needs housing, subject to the applicable provisions of this subsection.”

The Township is negotiating with Caring, Inc. to provide affordability controls for four alternative living arrangement facilities that Caring, Inc. operates in the Township. It is the Township’s intent to provide land to Caring, Inc. in order to construct additional affordable housing units within the Township and as part of this process have Caring Inc. deed restrict their existing units.

The Township will seek credit for the following alternative living arrangement facilities that Caring, Inc. operates:

- 116 Woodside Drive – 3 bedrooms
- 38 Diedre Drive - 4 bedrooms
- 15 Erma Drive - 3 bedrooms
- 32 Dorset Drive - 3 bedrooms

6215 Main Avenue – 4 bedrooms

The Township is negotiating with The Arc of Atlantic County to provide affordability controls for four alternative living arrangement facilities that the Arc of Atlantic County operates in the Township. It is the Township's intent to provide land to The Arc of Atlantic County in order to construct additional affordable housing units within the Township and as part of this process have The Arc of Atlantic County deed restrict their existing units.

The Township will seek credit for the following alternative living arrangement facilities that The Arc of Atlantic County operates:

314 Heathercroft – 2 bedrooms

374 Heathercroft - 4 bedrooms

7128 Fernwood Avenue - 5 bedrooms (existing 20 year affordability controls to 10/25/08)

4. Assisted Living Facilities Credits – In accordance with N.J.A.C. 5.97-4.3(d) a municipality may receive one credit for each apartment in an assisted living facility. The Township intends to seek credit for the facility that Assisted Living Concepts, Inc. operates within the Township.

Mey House, 199 Steelmanville Road – 47 Assisted living Facility beds.

5. Mobile Home Parks -The Township will establish a program to establish controls necessary to maintain unit affordability of mobile home units, in accordance with COAH regulations. This would be accomplished by allowing for the expansion of existing mobile home parks and the having units that turnover be restricted for affordable households. The Township Zoning Ordinance will be amended to allow for the expansions with provisions for affordability controls. An affordable housing regeneration component will also be incorporated to capture additional units that turnover during the remainder of the Third Round. It is anticipated that within the Township's 20 mobile home parks that 600 units will be regenerated with affordability controls by December 31, 2008. Assuming that 5% of the units turnover in each park per year, approximately 1,005 units (2010 units x 0.05 x 10 years). The Township believes that of the 1,005 units that will turnover, 200 can be deed restricted in accordance with COAH requirements. It is also anticipated that an additional 200 units can be deed restricted in accordance with COAH requirements for the expansion of existing mobile home parks as two mobile home parks have expressed interest in expanding their parks by 100 units each. It should be noted that the Township currently exercises controls over rental increases in the mobile home parks within the Township, as delineated in §180: Rent Review of the Township Code.
6. Pinelands Area Development – In accordance with N.J.S.A. 52:27D-329.9 Developments in certain regional planning entities at least 20% of the residential units shall be reserved for low or moderate income households within the Pinelands portion of the Township. It should be noted that the Pinelands Commission will need to adopt regulations to implement the requirements contained in N.J.S.A. 52:27D-329.9.

During the period from 2000-2004, 1,958 residential units were approved in the Pinelands portion of the Township. During the same period, 3,008 building permits for new housing units were issued in the Township. The 1,958 residential units approved in the Pinelands portion of the Township represents 65.09% of the total number of residential permits issued in the Township during this period. COAH has projected that 3,697 new residential units will be constructed in the Township from January 1, 2004 through December 31, 2008. Anticipating that 20% of the residential units approved in the Pinelands portion of the Township will need to be reserved for low and moderate income housing beginning in 2010, 288 units will be created ((3,697 units/15 years (2004-2018) x 9 years (2010-2018) x 0.65(percent of units in the Pinelands) x 0.20(affordable housing percentage)) for low and moderate income households.

7. Residential Conversions - The Township will amend its zoning ordinance to permit for the conversion of single family units to include accessory apartments that are appropriately deed restricted in accordance with 5:97-6.8(b). The ordinance will ensure compliance with all applicable zoning ordinances and shall be designed to provide for adequate off street parking. A minimum of \$20,000 is required to subsidize a moderate income apartment and a minimum of \$25,000 is required to subsidize a low income apartment the accessory apartment. The Township will institute the program, allowing for a maximum of 10 accessory apartments. Funding from

the Township's affordable housing trust fund will be utilized. Depending upon the success of the program, the Township may increase the allowable number of accessory apartments.

8. Supportive and Special Needs Housing – Supportive and special needs housing “means a structure or structures in which individuals or households reside, as delineated in N.J.A.C. 5:97-6.10, previously referred to alternative living arrangements”. These facilities include, but are not limited to: residential health care facilities as regulated by the New Jersey Department of Health and Senior Services, if the facility is located with, and operated by, a licensed health care facility; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; permanent supportive housing; and supportive shared living housing. and congregate living arrangements.

The Township is negotiating with Caring, Inc. to provide supportive and special needs housing. Caring, Inc. has indicated that they can provide 10, 4 bedroom units for the developmentally disabled and a 100 unit facility for developmentally disabled seniors. It is the Township's intent to provide the land for these units in order for Caring, Inc. to construct and operate in the Township to December 31, 2018.

The Township is negotiating with The Arc of Atlantic County to provide supportive and special needs housing. The Arc of Atlantic County has indicated that they can provide 2 units per year with 2-4 bedrooms per unit for the developmentally disabled. It is the Township's intent to provide the land for these units in order for The Arc of Atlantic County to construct and operate in the Township to December 31, 2018.

9. 100 percent affordable family rental development: The Ingerman Group has expressed interest in constructing a 100 percent affordable housing development on a portion of Block 1029, Lots 1, 2, 3, 4 and 5.01. The site is located in the Metropolitan Planning Area (PA1) portion of the Township and within the M-1 Light Industrial District. The Township will amend its zoning ordinance to allow for the development of this site for affordable housing. The Ingerman Group is proposing to construct 112 units for a family rental development on approximately 12.5 acres of the site resulting in a density of 8.96 units per acre.
10. 100 percent affordable family rental development: The owner of the Tilton Gardens Apartments has expressed interest in expanding their apartment complex on Blocks 1101, Lots 9, 10 & 11, Block 1129, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 33 Block 1130, Lots 3, 4, 5, 6, 7, 8, 9, 10, 11 & 12, and Block 1131, Lot 1 and constructing 40 affordable family rental units constructing a 100 percent affordable housing development on a portion of Block 1029, Lot 5.01. The site is located in the Pinelands Regional Growth portion of the Township and within the RG-4 Residential District. There presently exist 140 apartment units on the site. The owner of the site has indicated that in consideration for the allowing the expansion, 14 units within the existing apartment complex will be deed restricted. After the development is completed 180 units will be located on the site resulting in a density of 13.35 units per acre.
11. 100 percent age restricted rental development: Penny Point Park Apartments has expressed interest in constructing a 100 percent age restricted affordable housing development on a portion of Block 2201, Lot 1. It is anticipated that 60 age restricted rental units will be constructed on the site. The site is located in the Metropolitan Planning Area (PA1) portion of the Township and within the RCD Regional Commercial Development District. The Township will amend its zoning ordinance to allow for the expansion of this site for affordable housing. The site currently houses 152 family rental units which were financed through a HUD mortgage that was agreed to in 1971 and which will expire in 2011. In 1994, the owners entered into a Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) agreement for 50 years with HUD. There are 130 Section 8 units and 22 Section 236 units in the complex. Of the Section 236 units, 2 are 1 bedroom and 20 are two bedroom units. The apartment complex was constructed in 1975. After the development is completed 212 units will be located on the site resulting in a density of 22.15 units per acre.
12. English Creek Manor Site: This site consists of Block 3104, Lot 43 and Block 3201, Lot 14. The site is located within the Pinelands Regional Growth area of the Township and is in the RG-2 Residential District. Block 3104, Lot 43 consists of approximately 28.2 acres and is currently vacant. Block 3201, Lot 14 consists of approximately 77.3 acres. Approximately 10 of the acres are utilized for 66 mobile homes and the remainder of the lot is vacant. The owner's of the site have instituted litigation against the Township seeking a builder's remedy under Mount Laurel II. The Township has been negotiating a settlement under the jurisdiction of the Superior Court, with the owner's of the property. It is anticipated that a maximum of 552 units will be provided on the site, including the existing mobile homes, with up to 110 units reserved for low

and moderate income households. These rights regarding the English Creek Manor site are subject to the entry of a Consent Order regarding same and the approval of same by the court.

13. Scattered Site Affordable Housing: The Township will provide existing owned Township property in residential districts for the purpose of constructing affordable housing. The Township has identified 40 Township owned sites that have access to public water & sewer. Habitat for Humanity has expressed an interest in constructing affordable family housing within the Township. Based upon the discussions with Habitat for Humanity 20 owner occupied affordable units will be constructed within the Township until December 31, 2018.
14. Development Fee Ordinance: The Township will amend its existing development fee ordinance to continue to collect funds for affordable housing purposes.

#### Credits Analysis

1. Credits without controls (CWOC): 222 total units. Total credits: 222. N.J.A.C.. 5:97-4.2  
Owner Occupied Units: 184 units.  
Rental Units: 38 units.
2. Supportive and Special Needs Housing Credits: 28 existing bedrooms. 35 credits. N.J.A.C. 5:97-3.6
3. Assisted Living Facility: 47 beds. 47 credits N.J.A.C. 5:97-4.3(d)

#### Analysis For Prior Cycle

1. Rental Obligation Calculation (5:97-3.10(b)): The rental requirement for the prior round obligation shall be based on the following formula: Rental Requirement = 25% (Prior Round Obligation – Prior Cycle Credits – Impact of 20% cap – Impact of 1,000 unit limitation)  
  
Therefore:  $0.25(763 - 222 \text{ (CWOC Units)} - 0 - 0) = 136$  units must be rental.
2. Age Restricted Units Cap Calculation (5:97-3.10(c)1): The age-restricted maximum for the prior round obligation shall be based on the following formula: Age-Restricted Maximum = 25% (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits- Impact of 20% cap – Impact of 1,000 unit limitation – Transferred or Proposed RCA Units Addressing the Prior Round Obligation).  
  
Therefore:  $0.25(763 + 100 - 222 - 65 - 0 - 0 - 0) = 144$  units at most can be age restricted.
3. Rental Bonuses for the Prior Round Obligation (5:97-3.5(a)): A municipality may receive two (2) units of credit for each rental unit addressing its prior round rental obligation, provided the unit was created in the municipality and occupied on or after December 15, 1986, is not age-restricted and has controls on affordability for at least thirty (30) years. No rental bonuses shall be granted for rental units in excess of the prior round rental obligation.
4. Age Restricted Rental Bonuses for the Prior Round (5:97-3.5(b)): A municipality may receive one and one-third (1.33) units of credit for each age-restricted rental unit addressing its prior round rental obligation, provided the unit was created in the municipality and occupied on or after December 15, 1986, and has controls on affordability for at least thirty (30) years. No rental bonuses shall be granted for age-restricted rental units in excess of 50 percent of the prior round rental obligation.

#### Analysis for Third Cycle Numbers

1. Rental Obligation Calculation (5:97-3.10(b)3): The rental requirement for the growth share obligation shall be based on the following formula: Rental Requirement = 25% (Growth Share Obligation)  
  
Therefore:  $0.25(1,000) = 250$  units must be rental.

2. Age Restricted Units Cap Calculation (5:97-3.10(c)2): The age-restricted maximum for the growth share obligation shall be based on the following formula: Age-Restricted Maximum = 25% (Growth Share Obligation – Transferred or Proposed RCA units addressing the Growth Share Obligation).

Therefore:  $0.25(1,000 - 0) = 250$  units at most can be age restricted.

3. Rental Bonuses for the Growth Share Obligation (N.J.A.C. 5:97-3.6(a)): A municipality may receive bonuses for rental units in excess of its growth share rental obligation subject to the following: (1) A municipality may receive two units of credit for each rental family or permanent supportive housing unit provided pursuant to N.J.A.C. 5:97-6.4, 6.5, 6.6, 6.7, 6.9, 6.10, 6.13 or 6.15; (2) A municipality may receive one and one-fourth (1.25) units of credit for each bedroom in supportive and special needs housing provided pursuant to N.J.A.C. 5:97-6.10, where the unit of credit is the bedroom; (3) The unit must meet one of the following conditions (i) the unit was created in the municipality and occupied after June 6, 1999 or (ii) the municipality has provided or received a firm commitment for the construction of the unit.
4. Age Restricted Rental Bonuses for the Growth Share Obligation (5:97-3.6): None.

#### Limitations

1. At least 50% of the units addressing the fair share obligation shall be affordable to low income households (N.J.A.C. 5:97-3.3(a)).

Therefore:  $0.50(1,863) = 932$  units must be affordable to low income households.

2. At least 50% of the rental component of the growth share obligation must be family housing (N.J.A.C. 5:97-3.4(b)).

Therefore:  $0.50(250) = 125$  units must be family rental units.

3. At least 50% of the growth share obligation must be family units (N.J.A.C. 5:97-3.9).

Therefore:  $0.50(1,000) = 500$  units must be family units.

4. No more than 10 or an amount equal to 10% of the fair share obligation, whichever is greater, may be addressed through accessory apartments.

Therefore:  $0.10(1,863) = 186$  units may be accessory apartments.

5. At least 13% of the fair share obligation shall be made available to very low income households (N.J.S.A. 52:27D-329.1) COAH has yet to adopt regulations to implement this new Legislation. While this plan applies the 13 percent to the entire fair share, the intent is to adjust the percentage to that which COAH requires.

Therefore:  $0.13(1,863) = 243$  units need to be reserved for very low income households.

6. No more than one type of bonus may be received for an affordable unit. (N.J.A.C. 5:97-3.20(a)).

7. The total number of bonuses for the growth share obligation can not exceed 25% of the growth share obligation (N.J.A.C. 5:97-3.20(b)).

Therefore:  $0.25(1,000) = 250$  maximum number of bonuses for the growth share obligation.

#### Compliance with Prior Round Obligation:

1. Credits Without Controls  
184 owner occupied units  
38 family rental units

2. Caring Inc. 100% Age Restricted Development  
 100 age restricted units  
 1.33 rental bonus for prior round up to 50% of rental obligation (N.J.A.C. 5:97-3.5(b)  
 122 credits  $((0.50 \times 136) \times 1.33 + 100))$
3. The Ingerman Group 100% Affordable Family Rental Development  
 108 family rental units  
 Two units of credit for each rental unit not to exceed rental requirement of 136 units (N.J.A.C. 5:97-3.5(a).  
 216 credits for family rental units  $(108 + 108)$
4. Mobile Home Park Expansions/Unit Turnover  
 200 units from mobile home park expansions.  
 3 units from mobile home park turnovers.

Summary of prior round:

1. Number of rental credits = 254 which is greater than 136 required.
2. Age Restricted credits = 122 which is less than the maximum of 144.
3. Total for prior round obligation = 763 units

Compliance with Third Round Obligation:

1. English Creek Manor (Subject to Entry of Settlement and order approving same)  
 110 units
2. Accessory Apartment Program  
 10 rental units
3. Pinelands Area Development  
 288 units.
4. Supportive and special needs housing  
 Existing supportive and special needs housing = 28 bedrooms = 35 credits.  
 Proposed supportive and special needs housing = 100 bedrooms = 125 credits.  
 Caring, Inc. = 40 bedrooms  
 The Arc of Atlantic County = 60 bedrooms
5. Tilton Gardens Apartment Expansion  
 40 family rental units.  
 14 existing family rental units to be deed restricted.  
 Two units of credit for each rental unit in excess of growth share rental obligation of 250 units (N.J.A.C. 5:97-3.6(a).  
 108 credits  $(54 \times 2)$
6. Scattered Site Affordable Housing  
 20 owner occupied units from Habitat for Humanity
7. Mobile Home Park Expansions/Unit Turnovers  
 197 units from turnovers.
8. Mey House Assisted Living Facility  
 47 age restricted units
9. Penny Point Park Apartments Expansion  
 60 age restricted units

Summary of third round:

1. Number of rental credits = 393 which is greater than 250 required.
2. Age Restricted credits = 107 which is less than the maximum of 250.
3. Number of Family Housing Units = 725 which is greater than 500.
4. Number of bonuses = 104 bonuses which is less than the 250 permitted.
5. Total for third round obligation = 1,000 credits which is equal to the requirement.

Summary of fair share obligation:

Low Income Requirement

Supportive/Special Needs = 160

Ingerman 100% Affordable Development = 108

English Creek Manor Settlement = 55

Mey House = 47

Penny Point Park Apartments = 130 (Section 8 units)

Accessory Apartments = 5

Pinelands Development = 144 (288 x 0.50)

Caring, Inc. 100% Age Restricted Development = 50 (100 x 0.50)

Credits Without Controls = 110

Penny Point Park Expansion = 30 (60 x 0.5)

Habitat for Humanity = 10

Tilton Gardens Apartment Expansion = 20

Mobile Home Park Expansions/turnovers = 75

Total = 944

Very Low Income Requirement

Supportive/Special Needs = 128

English Creek Manor = 20 (14 + ((( 14 - (110 x 0.10)) x 2)

Ingerman 100% Affordable Development = 14

Penny Point Park Apartments = 130 (Section 8 units)

Pinelands Development = 38 (288 x 0.13)

Total = 330

The Township will be able to satisfy its rehabilitation, prior round and third round affordable housing obligations with the various methods that have been proposed by December 31, 2008, providing for a realistic opportunity for the production of low and moderate income units within the Township.

## APPENDIX A

### Credits Without Controls Cover Letter

<Date>

Dear Householder:

The Affordable Housing Questionnaire, Worksheets and Certification that we are sending you are important parts of Egg Harbor Township's efforts to determine the need for affordable housing in the Township. By completing the questionnaire and certification, you will help the Township accurately count eligible credits that may reduce the municipality's affordable housing obligation.

Please note that all information you provide will remain strictly confidential and will be used only by Egg Harbor Township and the Superior Court for this one purpose. This information will not be available to the public or any other governmental agency absent a protective order that would preserve your right to the confidentiality of the information you provide.

Please take the time to fill out the questionnaire accurately and return your completed questionnaire and certification in the envelope provided within 30 days or no later than **[We will need to insert date before finalizing this letter]**. If you misplace the provided envelope, please mark an envelope "CONFIDENTIAL" and mail to: Philip B. Caton; Appointed Court Master; Clarke, Caton, Hintz, Station Place; 400 Sullivan Way; Trenton, New Jersey 08628-3407.

If you have any questions, you may contact Joseph E. Johnston, Egg Harbor Township's Planner, at (609) 645-7110. Please note that we have included a document marked "Frequently Asked Questions" that may answer many questions you may have regarding this survey.

Thank you for your cooperation.

Sincerely,

Peter J. Miller  
Township Administrator

## APPENDIX B

### Credits Without Controls Survey Frequently Asked Questions

## FREQUENTLY ASKED QUESTIONS

### 1. **Who is Philip B. Caton, PP, AICP of Clarke Caton Hintz?**

Philip B. Caton is an expert appointed by the Court to assist the Court (a) in determining whether Egg Harbor Township has a shortfall in the number of affordable units it is providing; (b) in determining whether a developer that has sued the Township is entitled to a "builder's remedy" and, if so, what an appropriate remedy would be; and (c) in addressing such other issues as the Court deems appropriate. He is responsible for providing Egg Harbor Township guidance in the preparation and execution of the survey.

### 2. **Who is Joseph E. Johnston, PP, PE, CME?**

Joseph Johnston is an expert retained by Egg Harbor Township to assist Egg Harbor Township in developing its affordable housing plan; in helping determine the number of affordable units Egg Harbor Township is obligated to provide and the number of credits to which it is entitled, and to assist the Township in defense of the builder's remedy lawsuit. Joseph Johnston is responsible for all aspects of conducting the survey to determine the number of credits to which Egg Harbor Township is entitled for affordable housing that currently exists within Egg Harbor Township.

### 3. **What is the survey?**

The survey is a questionnaire prepared by a state agency known as the New Jersey Council on Affordable Housing ("COAH") and utilized in this matter by the Superior Court that is enclosed in the within packet of material. The survey requests information such as your annual household income, number of bedrooms in your home, monthly rent expense and monthly utility expenses.

### 4. **Why was I selected to receive this survey when my neighbors were not?**

Every resident in your municipality whose home or apartment received a certificate of occupancy between April 1, 1980 and December 15, 1986 and whose dwelling may qualify as an affordable unit has been selected to complete this survey.

### 5. **How will I benefit if I complete the survey?**

Each affordable housing credit that Egg Harbor Township earns means one less affordable house that the taxpayers must provide at a minimum potential cost of \$20,000 per unit. Completing the survey may save your future property tax dollars. **PLEASE BE SURE THE INFORMATION COLLECTED FROM THE SURVEY WILL BE STRICTLY CONFIDENTIAL AND PHILIP CATON AND THE COURT WILL BE THE ONLY ONE REVIEWING THE INFORMATION. THE INFORMATION WILL NOT BE MADE AVAILABLE TO THE PUBLIC OR ANY OTHER GOVERNMENTAL AGENCY.**

### 6. **If I fill out this survey does this mean more affordable units will be built in Egg Harbor Township?**

No. Your completion of the survey may have the exact opposite effect. All municipalities in New Jersey are obligated to provide their fair share of affordable housing. This survey will simply document the affordable housing that already exists for which Egg Harbor Township will receive a one-for-one-credit. Each credit means one less house that Egg Harbor Township must provide in the future.

### 7. **Who can I call if I have other questions about the survey?**

Please call our Planner (Joseph Johnston: 609-645-7110).

## APPENDIX C

### Credits Without Controls Survey

# **AFFORDABLE HOUSING SURVEY**

Block \_\_\_\_\_

Lot \_\_\_\_\_

Street Address \_\_\_\_\_

Municipality \_\_\_\_\_

**IMPORTANT:** THIS INFORMATION WILL REMAIN STRICTLY CONFIDENTIAL. IT WILL ONLY BE SEEN BY THE COURT-APPOINTED SPECIAL MASTER. IT WILL NOT BE SEEN BY YOUR MUNICIPAL GOVERNMENT OR ANY OTHER GOVERNMENTAL AGENCY.

---

**THIS PART TO BE COMPLETED BY YOUR HOUSEHOLD BEFORE MAILING FORM  
BACK TO THE SPECIAL MASTER IN THE ENCLOSED ENVELOPE**

---

## **FOR HOMEOWNERS ONLY**

If you own the home at the above address fill out 1 through 5 below:

1. Name of householder preparing this form \_\_\_\_\_  
(A householder is a person who occupies the home)
2. The number of bedrooms in my home is \_\_\_\_\_
3. The number of people in my household is \_\_\_\_\_  
(This is the total number of people who live in the home)
4. Total gross annual household income is (check one box): (gross means before taxes)  
(Household consists of total number of people living in the house)

- |  |  |
|--|--|
| <input type="checkbox"/> \$35,212 and under  | <input type="checkbox"/> \$50,304- \$54,327  |
| <input type="checkbox"/> \$35,213 - \$40,243 | <input type="checkbox"/> \$54,328 - \$58,352 |
| <input type="checkbox"/> \$40,244 - \$45,273 | <input type="checkbox"/> \$58,353 - \$62,376 |
| <input type="checkbox"/> \$45,274 - \$50,303 | <input type="checkbox"/> \$62,377 - \$66,400 |
|  | <input type="checkbox"/> \$66,401 and above  |

**If you need help calculating your income, please use the Voluntary Worksheet on last page.**

5. Is your home a mobile home?  Yes  No  
If yes, the monthly rental for the pad is: \$\_\_\_\_\_ per month.
6. If you pay a monthly or quarterly condominium fee or homeowner's association fee, please indicate the amount and whether you pay it monthly or quarterly: \$\_\_\_\_\_  Monthly  Quarterly
7. Do you own real estate other than the property in which you reside?  Yes  No If yes, please provide your exact total income and the net value of the real estate in the box below.

---

**X Total household income does include:**

Annual salary (including scheduled overtime); bonuses & tips; Social Security checks; unemployment checks; welfare, disability & pension benefits; alimony & child support payments; annual interest income from savings accounts, CDs, stocks, bonds, money market & trust funds (show only interest, not principle); annual income from businesses (not stocks & bonds) owned by household members.

**X Total household income does not include:**

Food stamps; payments for care of foster children; personal property such as automobiles and your own home; relocation assistance programs; scholarships; student loans; lump sum additions to family assets (such as inheritances, lottery winnings and insurance settlements); payments or credits received under the home energy assistance programs; income of live-in attendants. IRA or annuity programs are not included as income until payments are actually received by a household member.

---

**FILL OUT BELOW ONLY IF YOU ANSWERED YES TO QUESTION 7**

1. My total household income (See Line 22 of Schedule 1040 or the voluntary worksheet on last page) is \_\_\_\_\_.
- >What is the net value of the other real estate owned (Net value equals market value minus outstanding mortgage debt).

(If you need more space-please use back of form)



**ALL RESPONDENTS MUST FILL OUT THIS SECTION**

I understand that this information will be used to help Egg Harbor Township meet its affordable housing needs and that the information provided will remain strictly confidential. I certify that the information I have provided is true, accurate and complete, under penalty of **N.J.S.A. 2C:21-3**\*\*

_____	_____
(signature)	(date)
_____	_____
(print name)	(street address)
_____	_____
(telephone number)	(city, state and zip code)

**After completing and signing, please mail survey in the stamped self-addressed envelope provided. Thank you very much. This information will remain strictly confidential. If you have any questions, please do not hesitate to call Joseph Johnston at (609) 645-7110.**

This part to be completed by the Court-appointed Master:	
<input type="checkbox"/>	This household <u>is not</u> income qualified
<input type="checkbox"/>	This household is income qualified

**\*\*N.J.S.A. 2C:21-3**, which applies to this certification, declares it to be a disorderly person offense to knowingly make a false statement or give false information as part of a public record.

**VOLUNTARY INCOME WORKSHEET, IF YOU NEED IT**

Please fill in the blanks below to calculate your total household income. Be sure to include information for every member of your household over the age of 18 who is not a full-time student. If you have any questions regarding this worksheet, please call Joseph Johnston at (609) 645-7110.

1. Annual salary (including scheduled overtime), bonuses & tips	\$
2. Social security checks, unemployment checks, welfare, disability & pension income	\$
3. Alimony & child support payments received	\$
4. Annual interest income from savings acct., CDS, stocks, bonds, money market & trust funds (show only interest, not principal)	\$
5. Annual income from businesses (not stock & bonds) owned by a household member	\$

APPENDIX D

Affordable Housing Ordinance

**Ordinance No. \_\_\_\_ - \_\_ - \_\_**

**Affordable Housing Ordinance**

**Township of Egg Harbor, Atlantic County**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWNSHIP OF EGG HARBOR TO ADDRESS THE REQUIREMENTS OF THE COURT AND THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE TOWNSHIP’S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the governing body of the Township of Egg Harbor, Atlantic County, New Jersey, that the Zoning Ordinance of the Township of Egg Harbor is hereby amended to include provisions addressing Egg Harbor Township’s constitutional obligation to provide for its fair share of low- and moderate-income housing, consistent with N.J.A.C. 5:97-1, et seq., as may be amended and supplemented, and N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented, and pursuant to the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

The Egg Harbor Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the methods by which Egg Harbor Township shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97-1, et seq., as may be amended and supplemented.

The Township of Egg Harbor shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96 et seq. regarding the status of the implementation of the Housing Element and Fair Share Plan. Any report filed by Egg Harbor Township with COAH and any report prepared by COAH in response shall also be filed with the Atlantic County Superior Court and shall be available to the public at the Egg Harbor Township Municipal Building, Township Clerk’s Office, 3515 Bargaintown Road, New Jersey, 08234, at the COAH offices at P.O. Box 813, 101 South Broad Street, Trenton, New Jersey 08625-0813 and on COAH’s website.

**Section 1. Municipal Fair Share Obligation**

The Township of Egg Harbor has a fair share obligation consisting of a 763 unit prior round obligation, a 100 unit rehabilitation obligation, and a 1,000 unit capped growth share obligation. Notwithstanding the fact that the Housing Element and Fair Share Plan have been prepared based upon the projected third round growth share obligation, the actual third round growth share obligation will be determined based on the actual development that occurs between January 1, 2004, and December 31, 2018, and calculated at the rate of one affordable housing unit for every four market rate residential units constructed and one affordable housing unit for every 16 jobs created through the development or expansion of non-residential floor area in accordance with the schedule presented in Appendix D of COAH’s Substantive Rules (N.J.A.C. 5:97).

**Section 2. Definitions**

The following terms when used in this Ordinance shall have the meanings given in this Section:

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

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

“Administrative agent: means the entity responsible for the administration of affordable units in accordance with this Ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC (N.J.A.C. 5:80-26).

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

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

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

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

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

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

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

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

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

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

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

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

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

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells),

heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

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

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

### **Section 3. Affordable Housing Programs**

Egg Harbor has determined that it will use the following programs to satisfy its affordable housing obligations:

1. A rehabilitation program. See Section 4.
2. Projects outlined in the Housing Element and Fair Share Plan adopted by The Township of Egg Harbor Planning Board on December 22, 2008.
3. In addition to the foregoing, any property in the Township of Egg Harbor that is currently zoned for nonresidential uses and is subsequently rezoned for residential purposes or receives a use variance to permit residential development shall provide an affordable housing set-aside of 20% if the affordable units will be for rent and 25% if the affordable units will be for sale.
4. The following general guidelines apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low-and moderate-income housing units.

### **Section 4. Rehabilitation**

1. Egg Harbor Township’s rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The rehabilitation program shall be divided into two segments, an owner occupancy rehabilitation program and a renter occupancy rehabilitation program.
2. Egg Harbor Township hereby designates Atlantic County Improvement Authority (ACIA) as the Administrative Agent for the owner occupied portion of its rehabilitation program.
3. Egg Harbor Township hereby designates the Administrator of the Township of Egg Harbor as its Administrative Agent for the renter occupancy rehabilitation program.
4. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.

5. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units, the control period shall be enforced with a lien, and, for renter occupied units, the control period shall be enforced with a deed restriction.
6. Egg Harbor Township shall dedicate a minimum of \$12,000 for each rental unit to be rehabilitated through the rental occupancy rehabilitation program, with \$10,000 of this amount reflecting the minimum hard costs of rehabilitation per unit and the remaining \$2,000 reflecting the cost of the Township's administrative services for each rental occupancy rehabilitation unit. The owner occupancy rehabilitation program shall be funded by the ACIA pursuant to a Shared Services Agreement, using outside sources of funding.
7. The Township shall adopt a resolution committing to fund any shortfall in the rental rehabilitation program.
8. The Township of Egg Harbor shall prepare and adopt by resolution a rehabilitation manual for the rental occupancy rehabilitation program to be administered by the Administrative Agent. The manual shall be continuously available for public inspection in the Office of the Township Clerk and in the office of the Administrative Agent.
9. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and UHAC, but shall be administered in accordance with the following:
  - a. Upon the initial rental of a vacant unit subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and to be affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
  - b. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
  - c. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
  - d. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**Section 5. Permanent Supportive Living and Supportive Shared Living Housing**

1. The administration of a supportive living housing facility shall be in compliance with N.J.A.C. 5:97-6.10, including the administration thereof in accordance with N.J.A.C. 5:97-9 and UHAC, with the following exceptions:
  - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms shall be affirmatively marketed to individuals with special needs in accordance with a plan approved by the Court or by COAH's Executive Director, if approval is delegated by the Court;
  - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, supportive living housing facilities shall have the appropriate controls on affordability in accordance with N.J.A.C. 5:97-9 and UHAC.

3. The service provider for a supportive living housing facility shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the supportive living housing facility.

### **Section 6. New Construction**

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
  - a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
  - b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
  - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - 1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
    - 2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;
    - 3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
    - 4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
2. Accessibility Requirements:
  - a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
  - b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
    - 1) An adaptable toilet and bathing facility on the first floor;
    - 2) An adaptable kitchen on the first floor;
    - 3) An interior accessible route of travel on the first floor;
    - 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor;
    - 5) An interior accessible route of travel between stories within an individual unit, except that if all of the terms of paragraphs b.1) through b.4) above have been satisfied, an interior accessible route of travel shall not be required between stories within an individual unit; and
    - 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-31 1a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-

3.14, or evidence that Egg Harbor Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

- a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- b) To this end, the builder of restricted units shall deposit funds within the Township of Egg Harbor's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
- c) The funds deposited under paragraph 6)b) above shall be used by the Township of Egg Harbor for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- d) The developer of the restricted units shall submit a design plan and cost estimate for the conversion of adaptable to accessible entrances to the Construction Official of the Township of Egg Harbor.
- e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

- a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.

- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 10 percent of all low- and moderate-income rental units shall be affordable to very low-income households.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - 1) A studio shall be affordable to a one-person household;
  - 2) A one-bedroom unit shall be affordable to a one and one-half person household;
  - 3) A two-bedroom unit shall be affordable to a three-person household;
  - 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - 5) A four-bedroom unit shall be affordable to a six-person household.
- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - 1) A studio shall be affordable to a one-person household;
  - 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

**Section 7. Utilities**

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

**Section 8. Occupancy Standards**

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

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

**Section 9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

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

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

**Section 11. Buyer Income Eligibility**

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
2. Notwithstanding the foregoing, however, the Administrative Agent may, subject to COAH's approval, permit moderate-income purchasers to buy low-income units in housing markets determined by COAH to have an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing restrictions for low-income units.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to a certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

### **Section 12. Limitations on Indebtedness Secured by Ownership Unit; Subordination**

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

### **Section 13. Capital Improvements To Ownership Units**

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

### **Section 14. Control Periods for Restricted Rental Units**

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Egg Harbor Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Atlantic. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - a. Sublease or assignment of the lease of the unit;
  - b. Sale or other voluntary transfer of the ownership of the unit; or

- c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

#### **Section 15. Rent Restrictions for Rental Units; Leases**

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
4. The Township of Egg Harbor's Rent Review Ordinance shall be applicable to the restricted rental units provided that permitted rental increases do not exceed the rental increases permitted by COAH and the enforcement of the Rent Review Ordinance will not violate any of the other terms of this Ordinance.

#### **Section 16. Tenant Income Eligibility**

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - c. The household is currently in substandard or overcrowded living conditions;
  - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - e. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

### **Section 17. Municipal Housing Liaison**

1. COAH requires Egg Harbor Township to appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Egg Harbor Township shall adopt an Ordinance creating the position of Municipal Housing Liaison. Egg Harbor Township shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court unless such approval is delegated by the Court to COAH and shall be duly qualified before assuming the duties of Municipal Housing Liaison.
2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Egg Harbor Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - a. Serving as Egg Harbor Township's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - b. Monitoring the status of all restricted units in Egg Harbor Townships Fair Share Plan;
  - c. Compiling, verifying and submitting annual monitoring reports as required by COAH;
  - d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  - e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
3. Subject to the approval of the Court or of COAH if such approval is delegated to COAH by the Court, the Township of Egg Harbor shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court or of COAH if approval is delegated by the Court to COAH. The Operating Manual shall be available for public inspection in the Office of the Township Clerk and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

### **Section 18. Administrative Agent**

The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
  - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Egg Harbor and the provisions of N.J.A.C. 5:80-26.15; and
  - b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:
  - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Egg Harbor when referring households for certification to affordable units.
3. Affordability Controls:
  - a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Atlantic County Clerk's office after the termination of the affordability controls for each restricted unit;
  - d. Communicating with lenders regarding foreclosures; and
  - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
4. Re-sales and Re-rentals:
  - a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
  - b. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
5. Processing Requests from Unit Owners:
  - a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

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

**Section 19. Affirmative Marketing Requirements**

- 1. The Township of Egg Harbor shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- 2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or

familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward COAH Housing Region 6 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 6, comprised of Atlantic, Cape May, Cumberland and Salem Counties.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and re-sales and re-rentals. The Administrative Agent designated by the Township of Egg Harbor shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

#### **Section 20. Enforcement of Affordable Housing Regulations**

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

continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

- 2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Egg Harbor's Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - 3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
- 1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - 2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - 3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

- 4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- 5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- 6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner

#### **Section 21. Appeals**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court unless the Court delegates this responsibility to the Executive Director of COAH.

#### **Repealer**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

#### **Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

APPENDIX E

Development Fee Ordinance

**Ordinance No. \_\_\_\_ - \_\_ - \_\_**

**Development Fee Ordinance**

**Township of Egg Harbor, Atlantic County**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF EGG HARBOR,  
CHAPTER 225, SECTION 225-25.1 AFFORDABLE HOUSING DEVELOPMENT FEES**

**1. Purpose**

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

**2. Basic requirements**

- a) The Township of Egg Harbor shall not impose development fees on any applicant pursuant to this ordinance until COAH or a Court has approved the Development Fee Ordinance pursuant to N.J.A.C. 5:96-5.1, except that residential fees may be collected pursuant to the previously approved fee ordinance until such time as this ordinance takes effect, and non-residential fees shall be collected in accordance with the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
- b) The Township of Egg Harbor shall not spend development fees until COAH or a Court has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

**3. Definitions**

- a) The following terms, as used in this ordinance, shall have the following meanings:
  - i. “Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

- ii. “COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- iii. “Development fee” means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.
- iv. “Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. “Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. “Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### **4. Residential Development fees**

- a) Imposed fees
  - i. All residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent of the equalized assessed value for residential development provided no increased density is permitted.
  - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of up to six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
 

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
- b) Eligible exactions, ineligible exactions and exemptions for residential development
  - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
  - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval, or said approval expires without an extension granted by the respective review board. A substantial change to the general terms and conditions which preliminary approval was granted includes but is not limited to use; layout of streets, curbs and sidewalks, lot size, yard dimensions and off-tract improvements; and in the case of site plan, any conditions peculiar to site plan approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with

preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Developers of one single family dwelling unit demolished and replaced as a result of a natural disaster or as a result of an on-site residential demolition permit shall be exempt from paying a development fee.
- v. The expansion or addition to a single-family dwelling, including in-law apartments shall be exempt from paying a development fee.

## **5. Non-residential Development fees**

### **a) Imposed fees**

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

### **b) Eligible exactions, ineligible exactions and exemptions for non-residential development**

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Egg Harbor as a lien against the real property of the owner.

## **6. Collection procedures**

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the application for the first building permit for a development which is subject to a development fee.
- d) Within 30 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should the Township of Egg Harbor fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
  - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Egg Harbor Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Egg Harbor Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**7. Affordable Housing Trust fund**

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer of the Township of Egg Harbor for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. payments in lieu of on-site construction of affordable units;
  2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  3. rental income from municipally operated units;
  4. repayments from affordable housing program loans;
  5. recapture funds;
  6. proceeds from the sale of affordable units; and
  7. any other funds collected in connection with Egg Harbor Township's affordable housing program.
- c) Within seven days from the opening of the trust fund account, the Township of Egg Harbor shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, Sun National Bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or the Court.

**8. Use of funds**

- a) The expenditure of all funds shall conform to a spending plan approved by COAH or the Court. Funds deposited in the housing trust fund may be used for any activity approved by COAH or the Court to address the Township of Egg Harbor's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse the Township of Egg Harbor for past housing activities.

- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
  - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
  - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner may entitle Egg Harbor Township to bonus credits pursuant to N.J.A.C. 5:97-3.7.
  - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Township of Egg Harbor may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

**9. Monitoring**

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

**10. Ongoing collection of fees**

- a) The ability for Egg Harbor Township to impose, collect and expend development fees shall expire with its substantive certification or judgment of compliance unless the Township of Egg Harbor has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, or brought a declaratory relief action in Court pursuant to N.J.S.A. 52:27D-313. If Egg Harbor Township fails to renew its ability to impose and collect development fees prior to the expiration of a judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into

the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Egg Harbor shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Egg Harbor Township retroactively impose a development fee on such a development. Egg Harbor Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

### **Repealer**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

### **Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

APPENDIX F

Accessory Apartment Ordinance

**Ordinance No. \_\_\_\_ - \_\_ - \_\_**

**Accessory Apartment Ordinance**

**Township of Egg Harbor, Atlantic County**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF EGG HARBOR, CHAPTER 225, SECTION 225-27(CRW CONSERVATION-RECREATION-WETLAND DISTRICT AND RA RURAL AGRICULTURE DISTRICT), SECTION 225-28 (R-1 RESIDENTIAL ZONE), SECTION 225-30 (R-2 RESIDENTIAL ZONE), SECTION 225-31 (R-3 RESIDENTIAL ZONE), SECTION 225-32 (R-4 RESIDENTIAL ZONE), SECTION 225-33 (R-5 RESIDENTIAL ZONE), SECTION 225-33.1 (R-6 RESIDENTIAL ZONE), SECTION 225-34 (R-5 APARTMENT RESIDENTIAL ZONE), SECTION 225-36 (CB COMMUNITY BUSINESS DISTRICT), SECTION 225-37 (HB HIGHWAY BUSINESS DISTRICT), SECTION 225-37.1 (SHD SPECIAL HIGHWAY DEVELOPMENT DISTRICT), SECTION 225-38 (REGIONAL COMMERCIAL DEVELOPMENT DISTRICT), SECTION 225-39 (MC MARINE COMMERCIAL DISTRICT), SECTION 225-44 (RG-1 RESIDENTIAL DISTRICT), SECTION 225-45 (RG-2 RESIDENTIAL DISTRICT), SECTION 225-46 (RG-3 RESIDENTIAL DISTRICT), SECTION 225-47 (RG-4 RESIDENTIAL DISTRICT), SECTION 225-48 (RG-5 RESIDENTIAL DISTRICT) ENTITLED ZONING TO PROVIDE FOR AFFORDABLE HOUSING NEEDS**

**Summary**

The Township of Egg Harbor uses its zoning code to meet affordable housing needs by conditionally permitting accessory apartments. The ordinance allows owners of a principal residence to create an accessory apartment of at least 300 square feet but not greater than 25% of the total floor area of the main dwelling. The Township has limited the number of new permitted accessory apartments to 100.

**Ordinance**

It is the specific purpose and intent of this section to allow accessory apartments in all residential zones 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 the needs of low and moderate income residents. It is also the purpose of this limited, special-use provision to allow more efficient use of the Township's existing stock of dwellings and the Township'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 mixed use districts on the second floor above new and/or existing commercial uses, allow accessory apartments in new attached and/or detached structures and to protect and preserve property values in the Township of Egg Harbor. No new approvals of special permits for accessory apartments will be issued whenever a total of 100 special permits have been approved. To help achieve these goals to promote the other objectives of this chapter and of the Master Plan, the following specific standards and limitations are set forth for such accessory apartment use.

A. Location and number of units.

- (1) An accessory apartment may be located in the principal dwelling building or in a permitted accessory building, such as a barn or garage, and may include existing, new, or expanded structure construction.

B. Size.

- (1) The minimum floor area for an accessory apartment located within a principal structure shall be 300 square feet, but in no case shall it exceed 25% of the total floor area of the dwelling building.
- (2) For an accessory apartment located in an existing accessory building, the minimum floor area shall also be 300 square feet.

C. Other requirements.

- (1) Exterior appearance. Principal buildings containing an accessory apartment shall have only one front or principal entry to the building, and the 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 single-family 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.
- (2) Off-street parking. Off-street parking requirements shall be that two off-street parking spaces must be provided for each dwelling unit on the property of the applicant. Additional parking areas shall be paved only when proven necessary and shall be screened and buffered from adjacent properties to the extent possible. All parking requirements must be in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21-4.14).
- (3) Approval of utilities. Prior to the issuance of a building permit for the establishment of an accessory apartment, all septic systems and well (if applicable) must be approved by the governing agency.
- (4) The occupant must meet the established income limitations for low or moderate income households as specified by the rules and regulations of the Council on Affordable Housing (COAH) at NJAC 5:97 et seq.
- (5) Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.
- (6) The accessory apartment shall, for a period of at least 10 years from the date of the issuance of the initial certificate of occupancy, be rented only to low or moderate income households.
- (7) The accessory apartment must meet the adaptability law at P.L. 2005, c.350, if applicable
- (8) Rents of accessory apartments shall be affordable to a low income household as per COAH regulations.
- (9) 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.
- (10) Each accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
- (11) The accessory apartment shall have a separate door with direct access to the outdoors.
- (12) The accessory apartment shall be affirmatively marketed to the housing region in accordance with COAH regulations and the Uniform Housing Affordability Controls at NJAC 5:80-26.1 et seq..

D. Administration

1. The Township of Egg Harbor shall designate an administrative entity by municipal resolution to administer the accessory apartment program.
2. The administrative agency shall administer the accessory apartment program including advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, overseeing the securing of certificates of occupancy, qualifying properties, handling application forms, overseeing the filing of deed restrictions, filing monitoring reports and affirmatively marketing the accessory apartment program.
3. In accordance with COAH requirements, the Township shall provide at least \$20,000 for moderate income units and \$25,000 for low income units to subsidize the physical creation of an accessory apartment conforming to the requirements of this section and COAH requirements. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with the Township insuring that the subsidy shall be used to create the accessory apartment and the apartment shall meet the requirements of this ordinance and COAH regulations.

4. Applicants for the creation of an accessory apartment shall submit to the administrative agent:
  - a. 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;
  - b. Rough elevations showing the modification of any exterior building façade to which changes are proposed; and
  - c. 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.

**Repealer**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## APPENDIX G

### Spending Plan

## **Egg Harbor Township Spending Plan**

### **INTRODUCTION**

Egg Harbor Township, Atlantic County has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by William E. Nugent, J.S.C. on March 16, 2007 and adopted by the municipality on March 14, 2008. The ordinance establishes the Township of Egg Harbor's affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, Egg Harbor Township has collected \$ 0.00, expended \$ 0.00, resulting in a balance of \$0.00. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Sun Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

### **1. REVENUES FOR CERTIFICATION PERIOD**

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

(a) Development fees:

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

(b) Payment in lieu (PIL):

There are no actual and committed payments in lieu (PIL) of construction from developers.

(c) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units. No other funds have been or are anticipated to be collected.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

SOURCE OF FUNDS	Projected Revenues-Housing Trust Fund - 2008 Through 2018											
	7/18/08 Through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:												
1. Approved Development	\$92,799.52	\$741,435.97										\$834,235.49
2. Development Pending Approval		\$557,000.00										\$557,000.00
3. Projected Development		\$223,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$1,288,750.00	\$11,822,500.00
(b) Payments in Lieu of Construction												
(c) Other Funds (Specify source(s))												
(d) Interest	\$1,382.71	\$22,680.57	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$19,202.38	\$196,884.70
Total	\$94,182.23	\$1,544,866.54	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$1,307,952.38	\$13,410,620.19

Egg Harbor Township projects a total of \$ 13,410,620.19 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

**2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

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

- (a) Collection of development fee revenues:

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

- (b) Distribution of development fee revenues:

Distribution of development fees revenues shall be determined by the Township Administrator in accordance with the Housing Element & Fair Share Plan.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

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

Egg Harbor will dedicate \$ 24,000.00 to rehabilitation programs (see detailed descriptions in Fair Share Plan) as follows:

**Rehabilitation program:** \$ 24,000.00

- (b) **Accessory Apartment Program (N.J.A.C. 5:97-6.8(b))**

Egg Harbor Township will dedicate \$270,000.00 for the conversions of single family dwellings to include accessory apartments .

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

Projected minimum affordability assistance requirement:

Actual development fees through 7/17/2008		\$0.00
Actual interest earned through 7/17/2008	+	\$0.00
Development fees projected* 2008-2018	+	\$13,213,735.49
Interest projected* 2008-2018	+	\$196,884.70
Less housing activity expenditures through 6/2/2008	-	\$0.00
<b>Total</b>	=	13,213,735.49
30 percent requirement	x 0.30 =	\$3,964,412.35
Less Affordability assistance expenditures through 12/31/2004	-	\$0.00
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018	=	\$0.00
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018	÷ 3 =	0.00

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

Egg Harbor Township will dedicate \$ 3,964,412.35 from the affordable housing trust fund to render units more affordable, including \$ 1,321,470.78 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

Providing for the conversion of low and moderate income units to very low income units.

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

Egg Harbor Township projects that \$2,682,124.04 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

Administering the affordable housing trust fund and programs outlined in the Housing Element & Fair Share Plan.



## **5. EXCESS OR SHORTFALL OF FUNDS**

Pursuant to the Housing Element and Fair Share Plan, the governing body of *the* Township of Egg Harbor has adopted a resolution agreeing to fund any shortfall of funds required for implementing the Township's housing programs. In the event that a shortfall of anticipated revenues occurs, Egg Harbor Township will bond. A copy of the adopted resolution is attached.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to fund additional housing programs in the Township.

## **6. BARRIER FREE ESCROW**

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

## **SUMMARY**

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

Egg Harbor Township has a balance of \$ 0.00 as of July 17, 2008 and anticipates an additional \$ 13,410,620.19 in revenues before the expiration of substantive certification for a total of \$13,410,620.19. The municipality will dedicate \$ 245,000.00 towards rental rehabilitations and accessory apartments, \$ 3,964,412.35 to render units more affordable, and \$2,682,124.04 to cover administrative costs. Any shortfall of funds will be offset by bonding. The municipality will dedicate any excess funds toward additional housing programs in the Township.

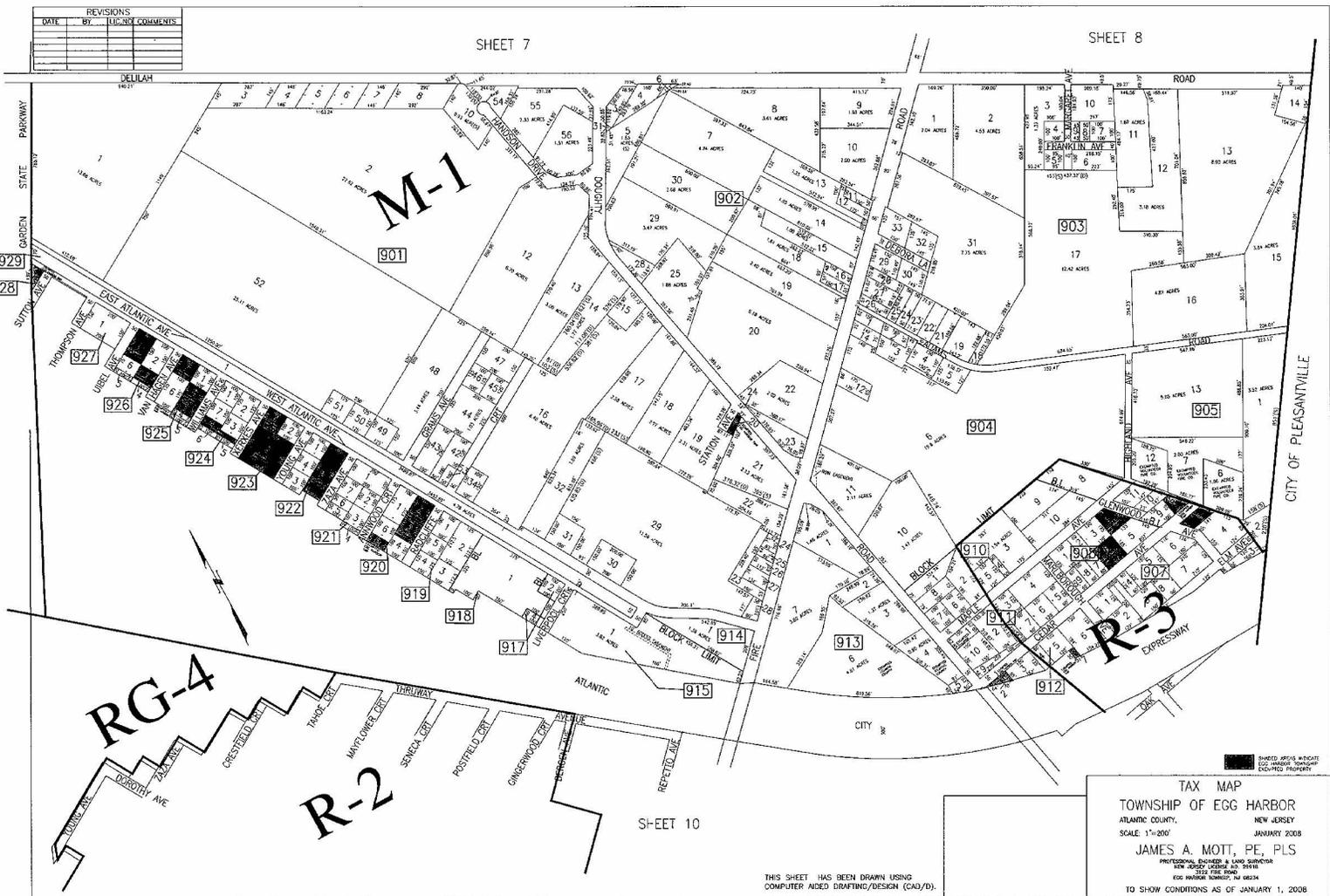
<b>SPENDING PLAN SUMMARY</b>	
Balance as of July 17, 2008	\$0.00
<b>PROJECTED REVENUE July 18, 2008-2018</b>	
Development fees	+ \$13,213,735.49
Payments in lieu of construction	+ \$
Other funds	+ \$
Interest	+ \$196,884.70
<b>TOTAL REVENUE</b>	<b>= \$13,410,620.19</b>
<b>EXPENDITURES</b>	
Funds used for Rehabilitation	- \$20,000.00
Funds used for New Construction	
1. Accessory Apartment Program	- \$225,000.00
2.	- \$
3.	- \$
4.	- \$
5.	- \$
6.	- \$
7.	- \$
8.	- \$
9.	- \$
10.	- \$
Affordability Assistance	- \$3,964,412.40
Administration	- \$2,682,124.04
Excess Funds for Additional Housing Activity	= \$6,519,083.75
<b>TOTAL PROJECTED EXPENDITURES</b>	<b>= \$13,410,620.19</b>
<b>REMAINING BALANCE</b>	<b>= \$0.00</b>

APPENDIX H  
Scattered Site Lots

## Scattered Sites Program

UNITS	BLOCK	LOT	#	STREET	ZONE	SIZE	COMMENTS
1	908	6	206	Cedar	R-3	15,000	
3	1434	10	211	Ashland	RG-4	15,000	2 potential lots
4	1435	2-4		Ashland	RG-4	10,000	
5	1437	13-15	2531	Tremont	RG-4	12,500	
6	1702	26-27	18	Harley	RG-2	13,500	
7	1702	81-82	12	William	RG-2	15,000	
8	1702	83-84	10	William	RG-2	15,000	
9	1703	62	3043	Tremont	RG-2	98,569	
10	1802	38	3034	Tremont	RG-2	98,569	
14	1807	70-93	3053	Ridge/Jefferson	RG-2	89,000	4 potential lots
20	1905	1		Franklin	RG-2	79,279	6 potential lots
22	2001	25		Lakewood	RG-2	41,750	2 potential lots
23	2206	16	21	Edwards	R-4	77,537	
25	2302	3	4098	Broadway	RG-2	98,881	2 potential lots
27	2606	14	4035	Ivins	RG-3	97,574	2 potential lots
31	2607	19-22	4035	Tremont	RG-3	120,000	4 potential lots
32	2718	7	309A	Flatbush	RG-3	14,000	
33	2917	5	310	Booker	RG-3	10,000	
34	3423	2-4,31		Bates	RG-1	45,000	
35	3423	5-6,26-27		Bates	RG-1	40,000	
36	3423	12-14,22		Bates	RG-1	45,000	
37	3424	13-14,22-24		Bates	RG-1	45,000	
38	3424	28-31,4		Bates	RG-1	42,500	
39	3434	48	4094	Tremont	RG-1	429,502	
40	5202	45	2028	Ocean Heights	RG-1	47,480	

REVISIONS		
DATE	BY	REVISION COMMENTS



SHEET 4

SHEET 7

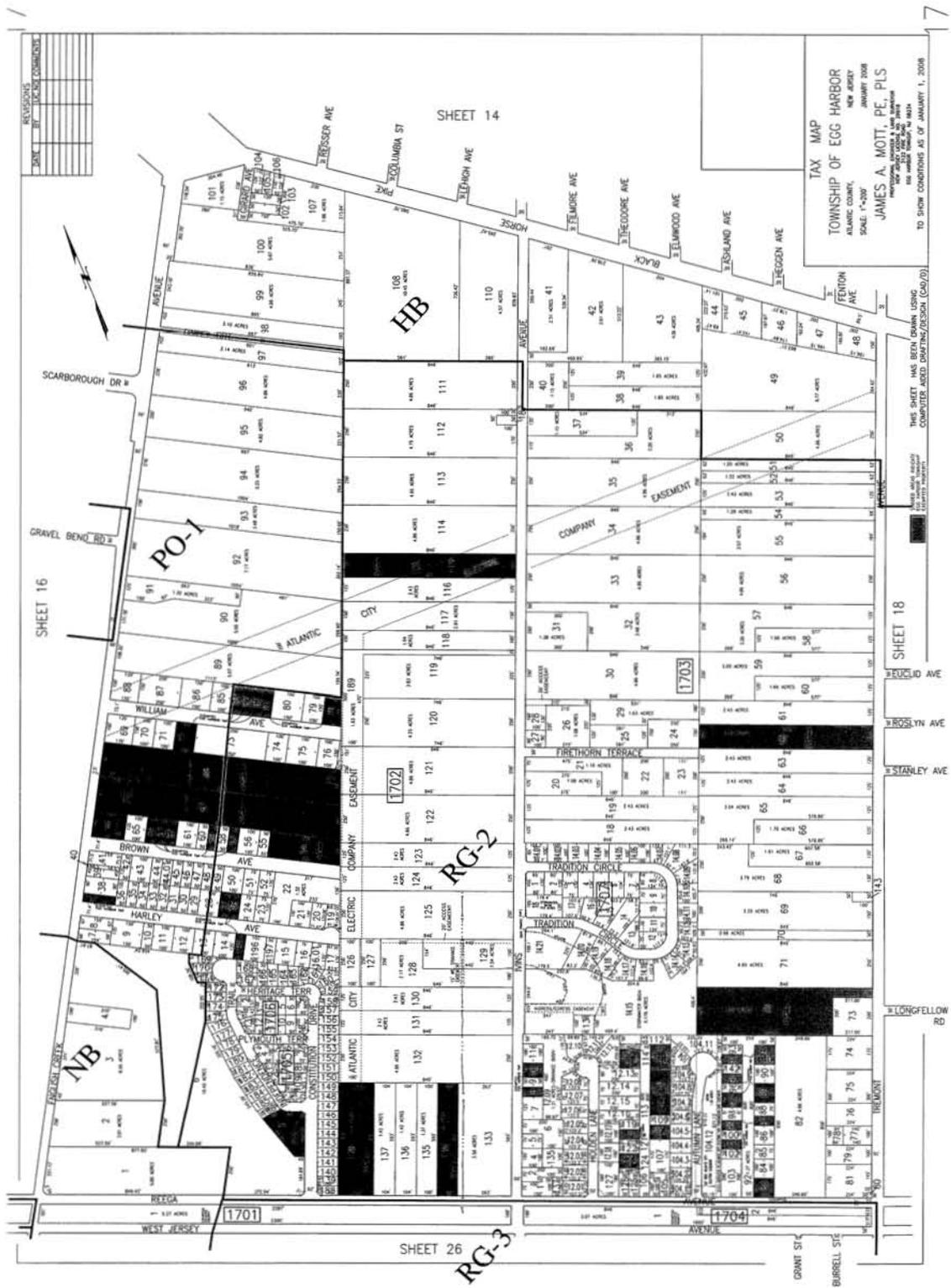
SHEET 8

SHEET 10

TAX MAP  
 TOWNSHIP OF EGG HARBOR  
 ATLANTIC COUNTY, NEW JERSEY  
 SCALE 1"=200'  
 JANUARY 2008  
 JAMES A. MOTT, PE, PLS  
 PROFESSIONAL ENGINEER & LAND SURVEYOR  
 NEW JERSEY LICENSE NO. 26124  
 2008 FEE \$1000  
 TO SHOW CONDITIONS AS OF JANUARY 1, 2008

THIS SHEET HAS BEEN DRAWN USING  
 COMPUTER AIDED DRAFTING/DESIGN (CAD/D).

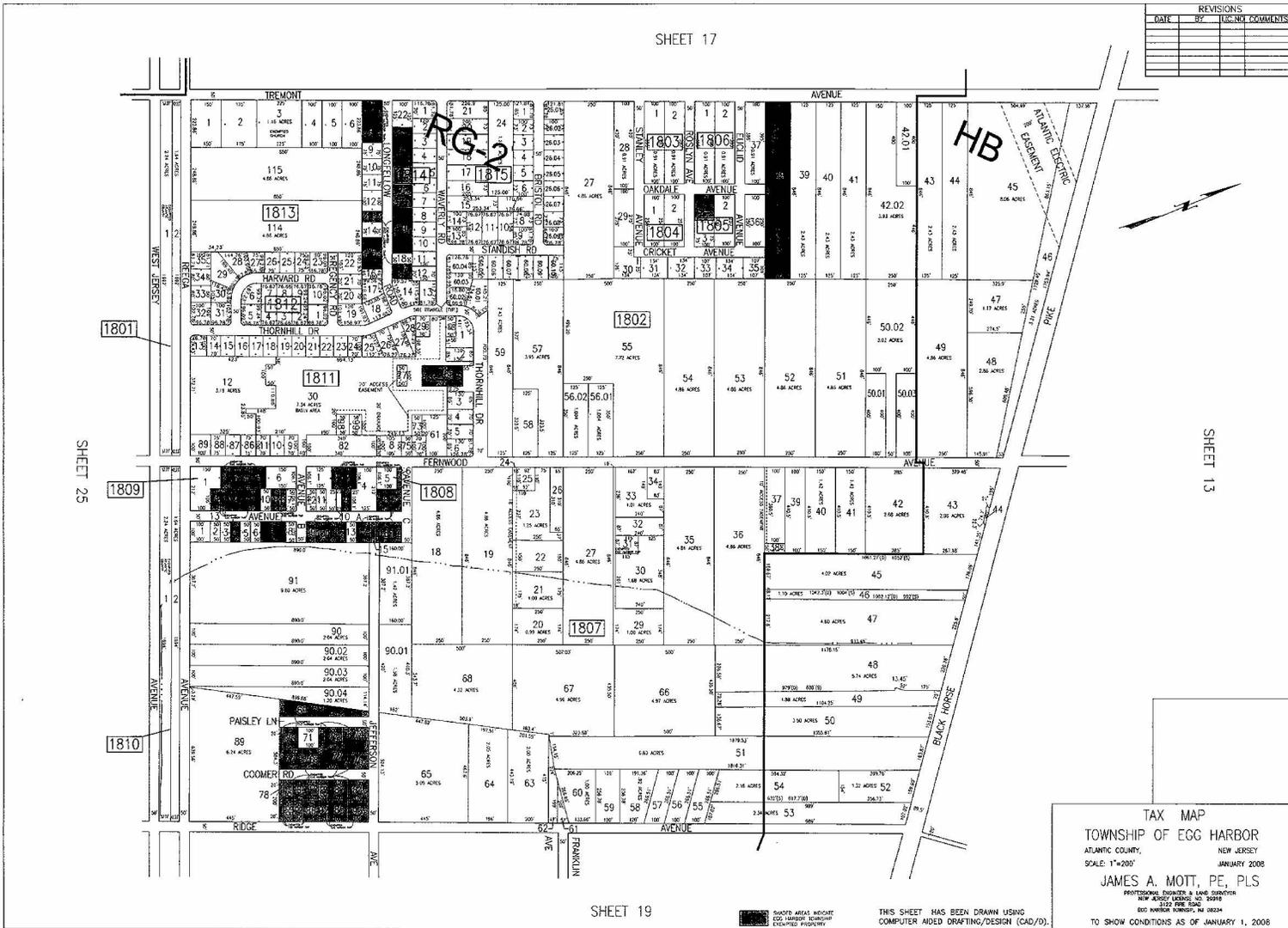




TAX MAP  
 TOWNSHIP OF EGG HARBOR  
 ATLANTIC COUNTY,  
 NEW JERSEY  
 JANUARY 2008  
 SCALE: 1"=200'  
 JAMES A. MOIT, P.E., P.L.S.  
 PROFESSIONAL ENGINEER & LAND SURVEYOR  
 100 WEST JERSEY AVE., SUITE 200  
 EGG HARBOR TOWNSHIP, NJ 08023  
 TO SHOW CONDITIONS AS OF JANUARY 1, 2008

THIS SHEET HAS BEEN DOWN LOADED  
 FROM THE TOWNSHIP OF EGG HARBOR  
 COMPUTER AIDED DESIGN/DESIGN (CAD/CADD)  
 DEPARTMENT

REVISIONS			
DATE	BY	DESCRIPTION	COMMENTS



1801

1809

1810

SHEET 25

SHEET 13

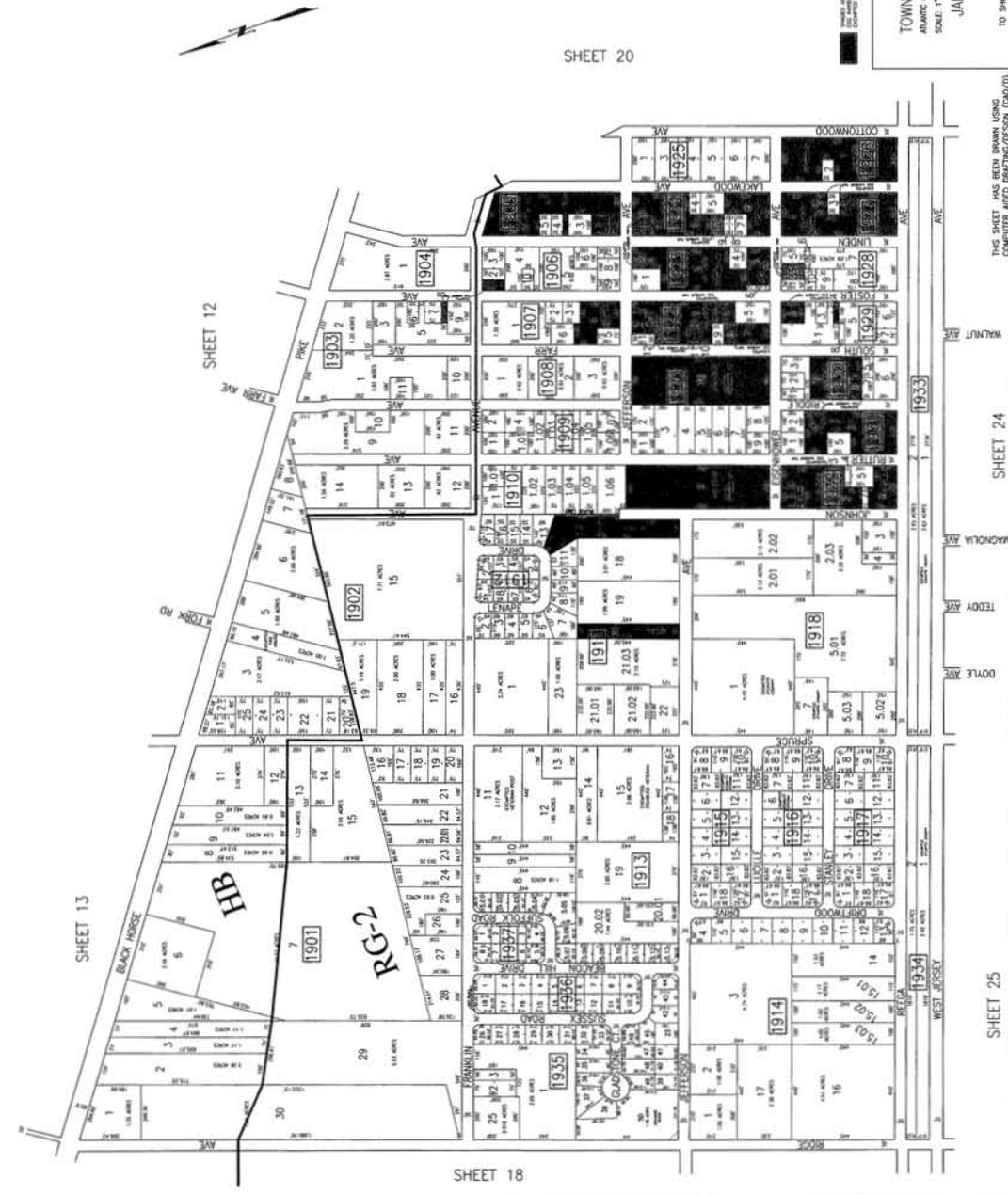
SHEET 19

SHADDED AREAS INDICATE  
 EGG HARBOR TOWNSHIP  
 EXCLUDED PARCELS

THIS SHEET HAS BEEN DRAWN USING  
 COMPUTER AIDED DRAFTING/DESIGN (CAD/D).

**TAX MAP**  
 TOWNSHIP OF EGG HARBOR  
 ATLANTIC COUNTY, NEW JERSEY  
 SCALE: 1"=200'  
 JANUARY 2008  
**JAMES A. MOIT, PE, PLS**  
 PROFESSIONAL ENGINEER & LAND SURVEYOR  
 NEW JERSEY LICENSE NO. 30118  
 3122 PINE ISLAND  
 800 PARKWAY BUNNELL, NJ 08234  
 TO SHOW CONDITIONS AS OF JANUARY 1, 2008

DATE	BY	REVISIONS



SHEET 20

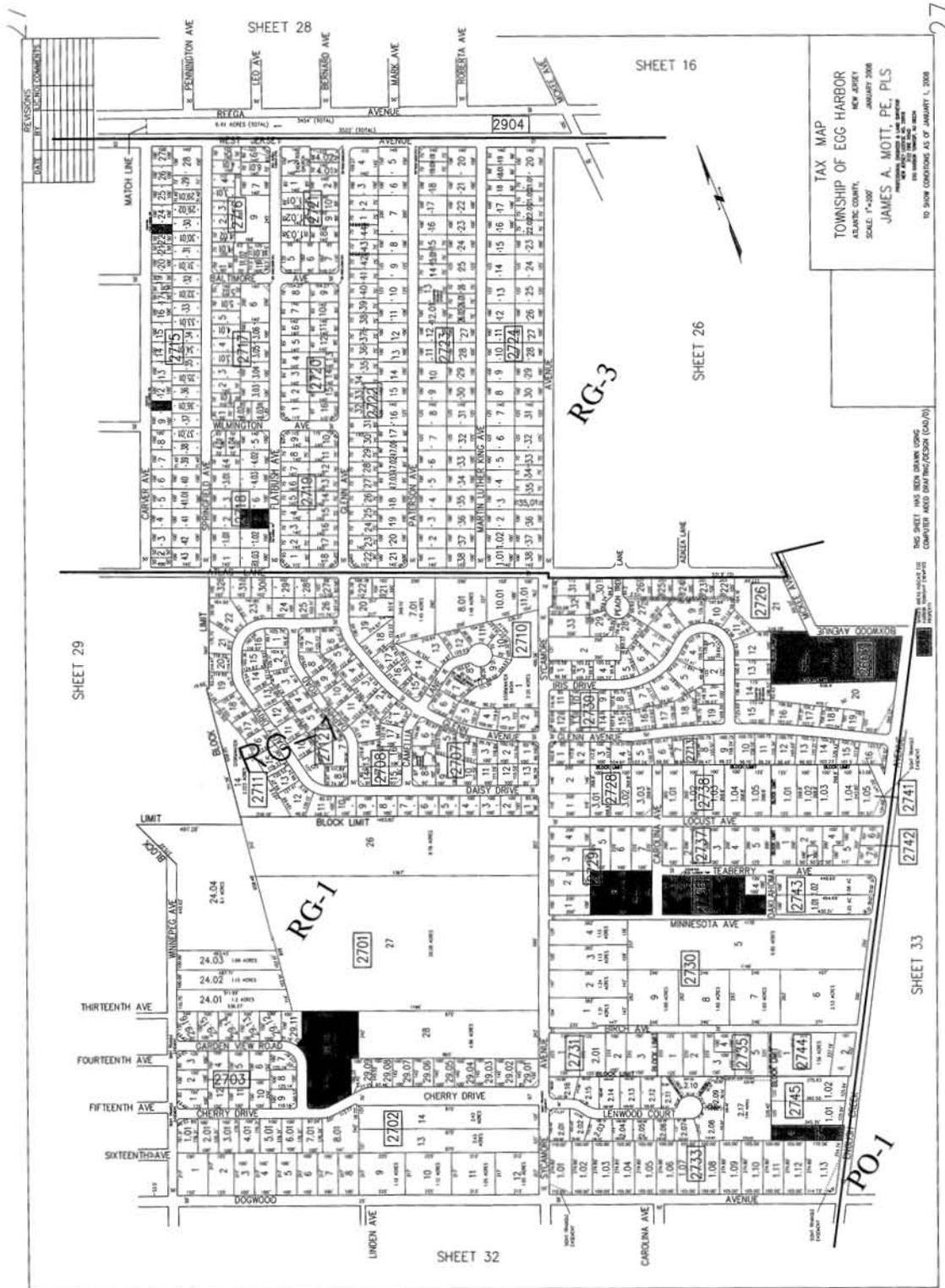
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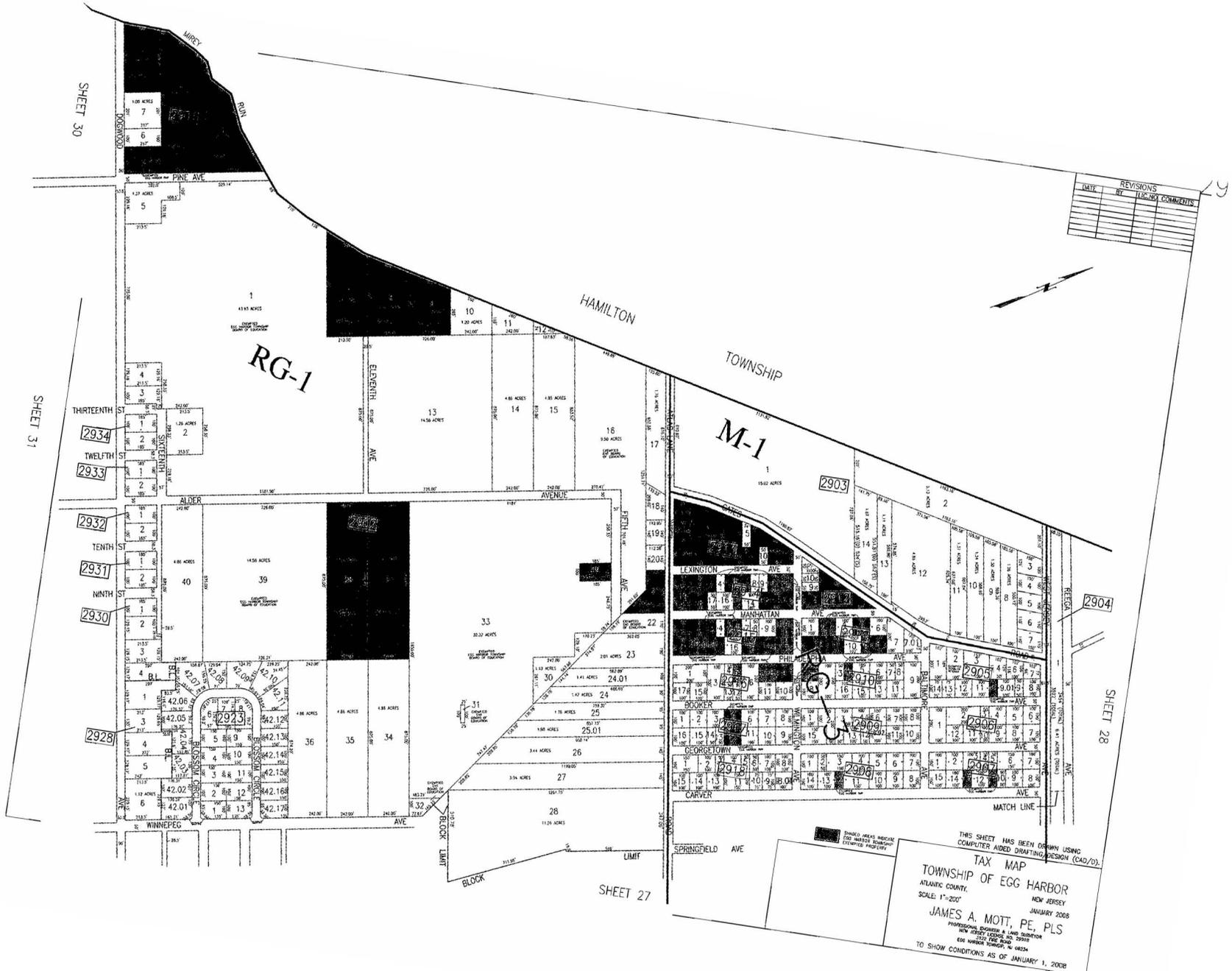












REVISIONS			
DATE	BY	LOC. NO.	COMMENTS

THIS SHEET HAS BEEN DRAWN USING  
COMPUTER AIDED DRAFTING DESIGN (CAD/C).  
**TAX MAP**  
 TOWNSHIP OF EGG HARBOR  
 ATLANTIC COUNTY,  
 NEW JERSEY  
 SCALE: 1"=200'  
 JANUARY 2008  
**JAMES A. MOTT, PE, PLS**  
 PROFESSIONAL ENGINEER & LAND SURVEYOR  
 NEW JERSEY LICENSE NO. 39387  
 606 HARBOR TOWNSHIP, NJ 08224  
 TO SHOW CONDITIONS AS OF JANUARY 1, 2008





APPENDIX I

Housing Implementation Schedule

**Table XXII**  
**Egg Harbor Township**  
**Housing Implementation Schedule**

PROJECT	HOUSING IMPLEMENTATION SCHEDULE										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation (Owner Occupied)	7	7	7	7	7	7	7	7	7	7	70
Rehabilitation (Rental)	1	1									2
Accessory Apartments	2	2	2	2	2						10
Ingerman Development			54	54							108
English Creek Manor				15	15	15	15	16	17	17	110
Tilton Gardens Apartments				18	18	18					54
Pinelands Development	28	28	28	28	28	29	29	29	30	31	288
Mobile Home Park Turnovers	20	20	20	20	20	20	20	20	20	20	200
Mobile Home Park Expansions	20	20	20	20	20	20	20	20	20	20	200
Penny Point Park Expansion								20	20	20	60
Caring, Inc. 100% Age Restricted			25	25	25	25					100
Caring, Inc. Group Homes	1	1	1	1	1	1	1	1	1	1	10
Arc of Atlantic County Group Homes	2	2	2	2	2	2	2	2	2	2	20
Habitat for Humanity	2	2	2	2	2	2	2	2	2	2	20
<b>Total</b>	<b>83</b>	<b>83</b>	<b>161</b>	<b>194</b>	<b>140</b>	<b>139</b>	<b>96</b>	<b>117</b>	<b>119</b>	<b>120</b>	<b>1,252</b>

APPENDIX J

Chapter 180: Rent Review

## Chapter 180: RENT REVIEW

[HISTORY: Adopted by the Township Committee of the Township of Egg Harbor 4-11-1977 by Ord. No. 2-1977. Amendments noted where applicable.]

### GENERAL REFERENCES

Municipal Utilities Authority — See Ch. 6, Art. XX.

Uniform construction codes — See Ch. 89.

Protected tenancies — See Ch. 174.

Trailer coach parks — See Ch. 207.

### § 180-1. Definitions.

The following terms, wherever used herein or referred to in this chapter, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

**CAPITAL IMPROVEMENT** — An improvement, addition or contribution which materially and substantially adds to the value and utility of the property and/or appreciably prolongs its useful life, as contrasted and compared to a maintenance expense or a repair the primary purpose of which maintains the property in the same or nearly equivalent and ordinarily efficient operating condition. For purposes of § 180-6 and § 180-9, this definition may be further defined and restricted. The Rent Review Board shall additionally construe capital improvements for which rent increase reimbursements are sought, to be restricted to those that clearly benefit the rentable housing space and the tenants in the affected dwellings, as contrasted and compared to such capital improvements that do not have such a purpose, or that have such a purpose as incidental to or subservient to another or other purposes not benefitting the rentable housing space and the tenants in the affected dwellings. Additionally, the Rent Review Board may but is not required to seek guidance respecting any claimed "capital improvement" from pertinent sections of the United States Internal Revenue Service Code dealing with capital improvements. **[Amended 10-11-1995 by Ord. No. 25-1995]**

**CONSUMER PRICE INDEX (CPI)** — The Consumer Price Index (all items for all urban consumers, commonly referred to as the CPI-U) for the Philadelphia area, published periodically by the Bureau of Labor Statistics, United States Department of Labor. **[Added 5-26-1982 by Ord. No. 34-1982; amended 9-14-1983 by Ord. No. 30-1983; 10-11-1995 by Ord. No. 25-1995]**

**DWELLING** — Any building or structure or portion thereof or mobile homes and/or land appurtenant thereto or floating home and/or slip or dock space appurtenant thereto rented or offered for rent or lease to three or more tenants or family units for living purposes. Exempt from this chapter are motels, hotels, or other premises primarily serving transient guests. Also exempt from this chapter are public housing and buildings, structures and mobile home parks containing less than three housing units. Housing units newly constructed and rented for the first time are exempt, and the initial rent may be determined by the landlord. All subsequent rents shall be subject to the provisions of this chapter without regard to the status of the tenant. **[Amended 2-28-2007 by Ord. No. 9-2007]**

**FLOATING HOME** — Any building, structure, or vessel designed to float upon the water and used as a residence within a floating home community. **[Added 2-28-2007 by Ord. No. 9-2007]**

**FLOATING HOME COMMUNITY** — Community of floating homes approved by the State of New Jersey Department of Environmental Protection and located in the Township of Egg Harbor. **[Added 2-28-2007 by Ord. No. 9-2007]**

**HOUSING SPACE** — That portion of a dwelling rented, offered for rent or leased for living and dwelling purposes to one individual or family unit together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

**INVESTMENT** — Includes the amount of the original cash or equivalent consideration paid upon acquisition,

which shall not include the principal amount of any mortgage or mortgages, together with such other additional capital contributed after date of acquisition. **[Added 5-13-1981 by Ord. No. 9-1981]**

LANDLORD — An owner, sublessor, assignee or other person receiving or entitled to receive rent or any agent of a person receiving or entitled to receive rent.

PERIODIC TENANT — Any month-by-month tenant or any tenant at will or sufferance or any tenant having a lease for a term of less than one year.

RENT — The amount of consideration, including any bonus, benefit or gratuity demanded or received by virtue of any agreement between the parties whereby, upon the payment of a sum certain by the tenant, the landlord allows to him the peaceful and quiet enjoyment of the use and occupation of the housing space for that time period. If the parties agree that rent is to be paid upon some interval other than one month, then that shall be construed as an alternative method of payment, and the monthly rent shall be calculated by apportioning the rent so as to determine the sum due for the term of one month.

RENT REVIEW OFFICER — Such person as the Township Committee shall designate. **[Amended 9-14-1983 by Ord. No. 30-1983; 12-9-1987 by Ord. No. 60-1987]**

RESALE DECONTROL — This term shall refer to the elimination, termination or modification of any rent previously approved by the Rent Review Board, to the extent allowed and/or limited by any provision of Chapter 180, occasioned by the sale of any mobile home unit in a mobile home park by a tenant to any other tenant or new tenant. **[Added 10-11-1995 by Ord. No. 25-1995]**

## **§ 180-2. Rent Review Board.**

- A. There is hereby created within the Township of Egg Harbor a Rent Review Board, whose members shall be residents of the Township of Egg Harbor, not less than 18 years of age and who shall hold office for a term of two years from the first day of January in the year of appointment. The landlord members need not be residents, but must have an interest in property in the Township of Egg Harbor.
- B. The Board shall consist of seven individual members, plus a Rent Control Officer, all appointed by the Township Committee. All members shall serve without compensation. Two members shall be landlords of property affected by this chapter. Three members shall be homeowners who are neither directly or indirectly a landlord nor a tenant. In lieu of three homeowner members, the Township Committee may appoint to the Board a member of the Township Committee or any other Township officer or employee, in which event there shall be two homeowner members of the Board. Two members shall be tenants residing in property affected by this chapter who are not directly or indirectly landlords. **[Amended 9-14-1983 by Ord. No. 30-1983; 12-9-1987 by Ord. No. 60-1987; 12-13-1989 by Ord. No. 48-1989]**
- C. The Township Committee shall appoint three alternate Board members to serve in the event that a regular Board member or members are disqualified to act on a particular matter or are absent from a regularly or specially scheduled meeting. One alternate shall be a homeowner, one alternate a tenant and one alternate a landlord, as defined in this chapter. **[Added 2-13-1980 by Ord. No. 3-1980]**
- D. The Rent Review Officer shall serve as Chairman and shall only vote in the event that there is a tie vote by the individual members of the Board. **[Amended 10-14-1981 by Ord. No. 32-1981; 9-14-1983 by Ord. No. 30-1983; 12-9-1987 by Ord. No. 60-1987]**
- E. In the event that the Township Committee is unable to secure the services of two landlord members, the Committee may appoint individuals to act as landlord members without regard to the qualifications set forth for landlord members in Subsection A above, provided that the individuals are not tenants as described in Subsection B above, and further provided that the individuals are subject to replacement by qualified individuals under the definition of "landlord" set forth above at the expiration of the term. In the event that the Township Committee is unable to secure the services of individuals who qualify for tenant membership or as

members under the definition of a "homeowner," the Committee may appoint individuals to fill available positions without regard to the category qualifications set forth above, provided that such individuals shall be residents of the Township and shall be subject to replacement by qualified individuals of the expiration of the term. This subsection shall not apply to the Chairman. **[Amended 9-14-1983 by Ord. No. 30-1983]**

- F. A member of the Board shall be subject to removal by Committee for good cause upon written charges and after public hearing. The failure to attend two consecutive regular meetings of the Board without good reason shall constitute good cause for removal.
- G. All actions or decisions of the Board shall be taken or rendered upon a majority vote of those present and voting. Four members, exclusive of the Rent Review Officer, shall be necessary to constitute a quorum. **[Amended 5-10-1978 by Ord. No. 2-1977; 9-14-1983 by Ord. No. 30-1983; 12-9-1987 by Ord. No. 60-1987]**

### **§ 180-3. Jurisdiction and power of Board.**

The Rent Review Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all the power necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the following:

- A. To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.
- B. To issue and promulgate such written procedural rules which are deemed necessary to improve the efficiency of administration of this chapter.
- C. To hold hearings, including multiple hearings if necessary, adjourn and postpone hearings as may be necessary, and adjudicate objections from tenants to increased rent applications and to hear applications from tenants for reduced rents, as hereinafter provided. **[Amended 5-26-1982 by Ord. No. 34-1982; 12-13-1989 by Ord. No. 46-1989]**
- D. To hold hearings, including multiple hearings if necessary, adjourn and postpone hearings as may be necessary and/or adjudicate applications from landlords for rent increases as herein provided, as well as to consider agreements between the landlord and tenants for increased rents as is more fully set forth in § 180-12 of this chapter. **[Amended 9-14-1983 by Ord. No. 30-1983; 12-13-1989 by Ord. No. 48-1989]**
- E. To enforce the provisions of this chapter and to initiate proceedings in the Municipal Court for willful violations thereof.
- F. To issue subpoenas to compel the attendance of witnesses and the production of books and records in connection with hearings held pursuant to the provisions of this chapter.
- G. The Chairman may administer oaths and take testimony and shall afford both landlord and tenant a reasonable opportunity to be heard before the Board shall render any determination.
- H. The Board shall prescribe and provide all forms for filing an application or complaint under the terms of this chapter.

### **§ 180-4. Board hearings and determinations.**

**[Amended 9-14-1983 by Ord. No. 30-1983]**

- A. The Rent Review Board shall hold hearings and/or make determinations upon applications or objections properly brought before the Board under the provisions of this chapter. No increased rents may be charged pursuant to an application until after the Board makes its determination at a public meeting. Nothing herein, however, shall prevent the Board from allowing an increase in rents retroactively in the event that the Board, in its sole discretion, determines such would be fair and reasonable. Any and all increases may be charged only in accordance with the laws of the State of New Jersey governing landlord-tenant relations. **[Amended 12-13-1989 by Ord. No. 48-1989]**
- B. The Board shall not be obligated to hear matters that have previously been resolved by the Board and shall not be obligated to hear matters not brought before the Board in accordance with the provisions of this chapter.

- C. All applications for rental increases must be filed with the Board Secretary in the form acceptable to the Board and supplied by it pursuant to § 180-3H, and all application fees must be paid at the time of filing. **[Amended 10-11-1995 by Ord. No. 25-1995]**
- D. Proceedings. **[Amended 10-23-1985 by Ord. No. 43-1985; 12-13-1989 by Ord. No. 48-1989; 10-11-1995 by Ord. No. 25-1995]**
- (1) The Rent Review Board shall hold formal hearings and take testimony on applications for rental increases brought before the Board pursuant to §§ 180-9, 180-10 and 180-11.
  - (2) Section 180-7 deals with applications for rental increases intended to be of an expedited and abbreviated nature in lieu of more protracted proceedings. Section 180-8 similarly deals with applications for rental increases intended to permit Rent Review Board consideration or approval of pass-through reimbursements respecting increases or decreases in certain enumerated recurring operating expenses over which a landlord has no control. Section 180-12 similarly deals with a process intended to permit Rent Review Board concurrence with and approval of agreements reached between landlords and tenants. Therefore, since §§ 180-7, 180-8 and 180-12 deal with rental applications for which it is desirable to have an expedited process, the Rent Review Board shall not be obligated to conduct formal hearings or take testimony on such applications whenever less than 10% of the tenants of the rental units affected by the application file timely written objections noted below, and in such situations the Rent Review Board shall only be required to pass upon such applications based upon the documents submitted at a public meeting of the Rent Review Board, but without the need for a formal hearing that includes the taking of testimony from the landlord, the tenants, experts, other witnesses or any member of the public in attendance.
  - (3) Written objections to any application for rental increases shall contain the name and address of the objector and must be submitted to the Secretary of the Egg Harbor Township Rent Review Board within 14 days of receipt by the tenants of the notice of the application for rental increase from the landlord. Copies of the written objections shall be served by the tenant or tenant's representative personally or by certified mail upon the landlord within the same period of time. The landlord may consent to waive this requirement, but the Rent Review Board only may waive or relax this requirement (or postpone a scheduled meeting or hearing to consider the application in order to accommodate late receipt of written objections) when, in its discretion, it deems it necessary and reasonable to achieve a fair and equitable result.
  - (4) The Rent Review Board Secretary shall set an initial date for a hearing no sooner than 15 days nor later than 45 days after the completed application has been filed with the Rent Review Board. However, respecting applications pursuant to §§ 180-7, 180-8 and 180-12, whenever less than 10% of the tenants of the rental units affected by the application file timely written objections, the Rent Review Board Secretary may set a meeting date for the Rent Review Board to consider the application as soon as practicable after the expiration of 14 days from the date the tenants receive notice of the application from the landlord.
- E. Notice; proof of compliance. **[Amended 10-11-1995 by Ord. No. 25-1995]**
- (1) The landlord shall make a good-faith effort to serve each tenant, by certified mail, return receipt requested, or by personal service, with:
    - (a) A copy of the application for rental increase at the same time he files the application with the Board Secretary; and
    - (b) A prompt notice informing each tenant of the date, time and place of the hearing of the Board or any adjourned or subsequent hearing of the Board concerning the application.
  - (2) At the commencement of the first hearing regarding any rental increase application, the landlord shall submit to the Board, as proof of compliance with this section and as a condition to the commencement of the hearing, a list of all affected tenants by name and address, together with the certified mail receipts or affidavit of personal service, as the case may be, of service on tenants of the copy of the application, notice of the hearing and any other notice required by this chapter. Respecting any tenants not so served with the application and notices, the landlord shall be required to state under oath or in affidavit

form the reasons why service was not capable of being accomplished and the efforts made to accomplish such service.

- F. As part of the application for increases under §§ 180-7, 180-8 and 180-12 of this chapter, the landlord shall provide the tenants with the following notice: **[Amended 10-23-1985 by Ord. No. 43-1985; 12-13-1989 by Ord. No. 48-1989; 10-11-1995 by Ord. No. 25-1995]**
- IF YOU DO NOT FILE A WRITTEN OBJECTION TO THIS APPLICATION WITH THE SECRETARY OF THE EGG HARBOR TOWNSHIP RENT REVIEW BOARD AND THE LANDLORD WITHIN FOURTEEN DAYS FROM THE DATE YOU RECEIVE THIS NOTICE, AND IF WRITTEN OBJECTIONS OF TEN PERCENT OR MORE OF THE RENTAL UNITS AFFECTED BY THE APPLICATION FOR THE RENT INCREASE ARE SIMILARLY NOT FILED WITH THE SECRETARY OF THE EGG HARBOR TOWNSHIP RENT REVIEW BOARD AND THE LANDLORD WITHIN SAID FOURTEEN-DAY PERIOD, AND THE TOWNSHIP RENT REVIEW BOARD MAKES THE DETERMINATION THAT THE CALCULATIONS SUPPORTING THE INCREASE ARE CORRECT AND THE APPLICATION OTHERWISE COMPLIES WITH THE PROVISIONS OF THIS CHAPTER, THE INCREASE MAY BE GRANTED AND YOU MAY NOT HAVE THE OPPORTUNITY TO PRESENT TESTIMONY TO THE BOARD.
- G. As part of a complete application for an increase pursuant to § 180-9, 180-10 or 180-11 of this chapter, the landlord shall file with the Rent Review Board the following books and records, all certified to be true and correct by the applicant or the applicant's accountant: profit and loss statements, balance sheet, statement of retained earnings, statement of changes in financial position and such other books and records as the Rent Review Board Chairman, on the advice of the Rent Review Board Accountant, may deem necessary for a full understanding of the applicant's financial position in connection with application for rent increase, including but not limited to a reviewed financial statement, canceled checks, invoices, detached depreciation schedules, pertinent portions of tax returns and other financial documents. The Rent Review Board shall make the books and records available for inspection by the tenants of the affected dwellings and/or their duly authorized representatives. No application shall be deemed complete until the provisions of this subsection and Subsection H of this section shall have been complied with and until the application is certified, in writing, as complete by the Rent Review Board Chairman. **[Amended 12-13-1989 by Ord. No. 48-1989; 10-11-1995 by Ord. No. 25-1995]**
- H. An application by the landlord, except an application under § 180-7, 180-8 or 180-12 of this chapter, shall include a report from the Egg Harbor Township Department of Inspections showing that the property is in substantial compliance with the Uniform Construction Code. Editor's Note: As to the uniform construction codes, see Ch. 89. No application shall be deemed complete until the report is filed with the Board.
- I. Notwithstanding what is otherwise set forth in this chapter, nothing herein contained shall limit the authority of the Board to determine the accuracy of all calculations submitted by the landlord, or otherwise determine the reasonableness or conscionability of all applications for increases under any provision of this chapter.

#### **§ 180-5. Rent increases restricted.**

- A. No landlord shall, after the effective date of this chapter, charge any rents in excess of what he was receiving on January 1, 1977, except for increases as authorized by this chapter. A landlord re-renting housing space during the effective time of this chapter shall not charge a new tenant a higher rent than the maximum he was permitted to charge the previous tenant (or in the case of housing space vacant for longer than one year, the tenant in comparable housing space in the same dwelling) pursuant to the provisions of this chapter. This subsection may only be modified pursuant to the terms of Subsection G of this section. This subsection shall become effective for floating home communities on the date of final adoption. Editor's Note: The "date of final adoption" refers to the adoption date of Ord. No. 9-2007, which is 2-28-2007. **[Amended 10-11-1995 by Ord. No. 25-1995; 2-28-2007 by Ord. No. 9-2007]**
- B. The landlord of housing space or a dwelling being rented for the first time shall not be restricted in the initial rent he charges. Any subsequent rent increases, or surcharges, however, shall be subject to the provisions of this chapter.
- C. Applications for rental increases under any one or more sections of this chapter must be initiated by the landlord in the same application during any one twelve-month period, and the Board shall grant only one

overall rental increase to any landlord during any one twelve-month period. The overall rental increase granted by the Board shall be divided by the Board into 12 equal and prospective monthly payments, the effective date and collection of which shall not begin less than 30 days after the Board's determination. However, pursuant to the terms of § 180-4A, and for reasons it determines in its sole discretion as equitable and fair to the landlord and tenants, the Board may allow a retroactive effective date for the rental increase and/or allow the retroactive portion of the rental increase (or any component thereof) to be collected on a pro rated basis prospectively after the thirty-day period referred to above. **[Added 9-14-1983 by Ord. No. 30-1983; amended 12-13-1989 by Ord. No. 48-1989; 10-11-1995 by Ord. No. 25-1995]**

- D. All rental increases for dwellings as defined by this chapter shall be determined by the provisions of this chapter, and any rental increases charged by a landlord to tenants in the Township of Egg Harbor, County of Atlantic and State of New Jersey, which increases have not been approved by this Board, shall be void. **[Added 9-14-1983 by Ord. No. 30-1983]**
- E. No landlord shall be permitted to obtain an increase pursuant to § 180-7 of this chapter (CPI), and also an additional increase pursuant to §§ 180-9 and/or 180-10 and/or 180-11, during the same twelve-month period, since an increase pursuant to § 180-7 is intended to be an expedited and abbreviated method of achieving an increase of a general nature in lieu of the more protracted process under §§ 180-9, 180-10 and/or 180-11. Similarly, any increases granted to a landlord under § 180-7, being increases of a general nature and of an expedited and abbreviated basis, shall be credited against a landlord with respect to any later application made pursuant to §§ 180-9 and/or 180-10 and/or 180-11 which seeks increases thereunder for any year previously covered by a CPI increase, in order to assure the prohibition of a duplicate or overlapping increase in rents. **[Added 10-11-1995 by Ord. No. 25-1995]**
- F. No landlord shall be permitted to obtain an increase pursuant to §§ 180-7 and/or 180-8 of this chapter for any period of time more than two years prior to the date of the application, and any claim for such increases under the above-named sections shall, in the interest of timeliness, order, stability and fairness be deemed stale and waived. **[Added 10-11-1995 by Ord. No. 25-1995]**
- G. Notwithstanding the provisions in this section or elsewhere in Chapter 180, a landlord shall be permitted to charge and receive a rent not in excess of 15% higher than the existing rent last approved by the Rent Review Board to any new tenant or existing tenant on the occasion by that tenant's purchase of a mobile home or floating home from another tenant without the need for Rent Review Board approval, and the situation shall be termed a "resale decontrol." The increase in the rent by the landlord shall occur only once following each sale of a mobile home or floating home, and no more than one such resale decontrol shall be permitted in any twelve-month period, regardless of the number of times a mobile home or floating home may be sold during that twelve-month period. The landlord's increase in a resale decontrol situation shall be not more than the actual amount of his increase, so that, in the event the landlord elects to increase the rent relative to that mobile home or floating home space by a percentage less than 15%, the landlord shall thereafter be prohibited, from again increasing the rent by any additional percentage on account of that resale decontrol. Additionally, for purposes of calculating the base rent upon which the percentage increase shall be calculated in a resale decontrol situation, such base rent shall be the existing rent less any portion or component thereof attributable to Egg Harbor Township pad fees and any existing capital improvement surcharge. **[Added 10-11-1995 by Ord. No. 25-1995; amended 2-28-2007 by Ord. No. 9-2007]**

#### **§ 180-6. Standard maintained.**

- A. During the term of this chapter and as a condition precedent to the approval of any new rent increase under any section of this chapter except § 180-12, it shall be the duty of the landlord at his cost, as a cost of doing business, to maintain not less than the same or equivalent level of service, maintenance and repair as existed at the commencement of the last rental increase and as required by any tenant's lease, other ordinances, law and prior rental increases approved by the Rent Review Board. A landlord's duty in this respect shall include but not be limited to routine maintenance and periodic repair and replacement as needed of all landlord-owned or -supplied systems, buildings, grounds, landscaping, grass cutting, brush or tree pruning, curbs, roads, off-street parking, walkways, storage, lighting, water supply, sewerage, irrigation, heat or other energy supply, trash, debris and garbage removal, signs, painting and other amenities of the same kind which benefit the rental housing space and affect the tenants. In addition, any willful violation hereof shall subject a landlord to punishment under §§ 180-3 and 180-15 of this chapter. **[Amended 10-11-1995 by Ord. No. 25-1995]**

- B. Any individual tenant or class of tenants not receiving substantially the same or equivalent level of service, maintenance or repair as referenced in Subsection A above may apply to the Rent Review Board to determine, fix and set the reasonable rental value by way of a rent reduction, credit or such other equitable means as the Rent Review Board shall determine, which shall then apply until such time as the landlord shall demonstrate to the Rent Review Board that such deficiency has been corrected. The Rent Review Board shall permit, set and conduct a hearing or hearings, as the need may exist, in a fashion similar to the procedures set forth in § 180-4 and elsewhere in this chapter, except that the Rent Review Board shall have the power to abbreviate the time periods or schedule an immediate hearing in regard to matters that involve an immediate and substantial risk to the safety, health and welfare of a tenant, tenants or the public. During the course of such a hearing or hearings and prior to the Rent Review Board's final decision, the Rent Review Board additionally shall have the power to grant interim rent relief to the tenant or tenants as may be necessary to achieve an equitable balance pending a final decision. **[Amended 10-11-1995 by Ord. No. 25-1995]**
- C. No rent increase shall be granted or allowed by the Board if it determines that the property in question is not in substantial compliance with the Uniform Construction Code, Editor's Note: As to the uniform construction codes, see Ch. 89. unless a purpose of the rent increase requested would be to place the property in question into substantial compliance with said Code. If a rent increase for such purpose is granted by the Board, the landlord shall initiate and consummate all necessary arrangements for the work within such time as is set by the Board at the time the increase is granted. The Board at the time of the granting of the rent increase shall specify a reasonable time limit for completion of the work required to effect substantial compliance with the Code. If the owner fails to initiate and consummate the necessary arrangements or complete the work within the time limit established by the Board, the rent increase previously granted by the Board shall be refunded in full, or credited in full, to the tenant. For good cause shown, the Board may grant reasonable extensions of time to the landlord for completion of the work. **[Amended 9-14-1983 by Ord. No. 30-1983]**
- D. During the term of this chapter, an applicant must pay and keep current all real estate taxes, municipal pad fees and costs and fees due to the Egg Harbor Township Municipal Utilities Authority Editor's Note: As to provisions relating to Egg Harbor Township the Municipal Utilities Authority, see Ch. 6, Administration of Government, Article XX. prior to being entitled to relief in accordance with any provision of this chapter or for continued relief in accordance with any decision rendered by the Board pursuant to this chapter. **[Amended 2-13-1980 by Ord. 3-1980; 3-14-1984 by Ord. No. 8-1984]**
- E. Notwithstanding whether or not the request for increase is to bring the property into substantial compliance with the Uniform Construction Code, nothing set forth herein shall prevent the Board from granting a rent increase and making the rent increase contingent upon the applicant bringing the property into compliance with the Uniform Construction Code. Editor's Note: As to the uniform construction codes, see Ch. 89. If the property is not brought into compliance pursuant to the Board's direction, the Board may order a refund or a credit against future rents in the amount of the increase granted. **[Added 9-14-1983 by Ord. No. 30-1983]**

**§ 180-7. Increase based on Consumer Price Index (CPI).**

**[Amended 9-14-1983 by Ord. No. 30-1983; 12-13-1989 by Ord. No. 48-1989; 10-11-1995 by Ord. No. 25-1995]**

- A. Subject to the provisions, restrictions and conditions of §§ 180-4, 180-5, 180-6 and elsewhere in this chapter, a landlord shall be entitled to one Consumer Price Index (CPI) rental increase in any twelve-month period, in lieu of and as an alternative to a rental increase under § 180-9, 180-10 or 180-11 of this chapter. The landlord shall initiate the request in his application, and that request shall preclude consideration by the Board of any other rental increase under § 180-9, 180-10 or 180-11 during the requested or Board-approved twelve-month period.
- B. A CPI rental increase shall be limited to the difference between the CPI 120 days prior to the filing date of the application and the CPI 16 months prior thereto. That difference shall then be expressed as a percentage of increase over the older CPI. That percentage shall then be multiplied against the current monthly net base rent, which shall be determined by deducting from the current gross rent Township pad fees and any unexpired capital improvement surcharges constituting part of the rent pursuant to § 180-9. The resultant figure shall be the new monthly rental increase that the Board shall approve. The new overall gross rent shall combine the current monthly net base rent with the increase referred to above and any Township pad fees and unexpired capital improvement surcharges referred to above.

- C. The application for rental increase under this section shall show all the figures and calculations referenced above in § 180-7B for the rental increase, and, if there is more than one level of rent among the tenants, then for all levels of rent.

**§ 180-8. Tax surcharge.**

- A. A landlord may impose a tax surcharge upon a tenant because of an increase in real property taxes. The tax surcharge shall not exceed that amount calculated by the following method: **[Amended 2-13-1980 by Ord. No. 3-1980; 11-30-1988 by Ord. No. 45-1988]**
- (1) By dividing the total tax increase by the number of square feet of the rental portions of the dwelling and imposing a surcharge by multiplying this tax increase per square foot by the amount of square feet occupied by the tenant.
  - (2) When the application concerns a mobile home or trailer park, the tax surcharge per pad or lot, if any, shall be calculated by either of the following methods as the Board may, within its discretion, subject only to a fair and equitable result to the parties considering the circumstances, deem appropriate:
    - (a) By multiplying the total tax surcharge permissible in accordance with this section times the ratio of the total square footage of all pads or lots in each group size of pads or lots as it bears to the total square footage of the mobile home or trailer park and then dividing that proportionate figure of the total tax surcharge by the number of lots or pads in that group size. A group of pads or lots shall consist of the same square footage size pads or lots. The applicant shall delete from the formula such portions of the mobile home or trailer park used for other uses than a mobile home or trailer park, including but not limited to uses of a personal nature, manufacturing, other unrelated services, other forms of housing and the like.
    - (b) By dividing the total tax surcharge permissible in accordance with this section by the number of rentable pads or lots of the mobile home or trailer park. The applicant shall delete from the total tax surcharge in the formula such portions of the mobile home or trailer park used for other uses than a mobile home or trailer park, including but not limited to uses of a personal nature, manufacturing, other unrelated services, other forms of housing and the like.
  - (3) When the application concerns a floating home or floating home community, the tax surcharge per slip, if any, shall be calculated by either of the following methods as the Board may, within its discretion, subject only to a fair and equitable result to the parties considering the circumstances, deem appropriate: **[Added 2-28-2007 by Ord. No. 9-2007]**
    - (a) By multiplying the total tax surcharge permissible in accordance with this section times the ratio of the total square footage of all slips in each group size of slips as it bears to the total square footage of the floating home community and then dividing that proportionate figure of the total tax surcharge by the number of slips in that group size. A group of slips shall consist of the same square footage size slips. The applicant shall delete from the formula such portions of the floating home community used for other uses than a floating home community, including but not limited to uses of a personal nature, manufacturing, daily slip rentals, other unrelated services, other forms of housing and the like.
    - (b) By dividing the total tax surcharge permissible in accordance with this section by the number of rentable slips of the floating home community. The applicant shall delete from the total tax surcharge in the formula such portions of the floating home community used for other uses than a floating home community, including but not limited to uses of a personal nature, manufacturing, daily slip rentals, other unrelated services, other forms of housing and the like.
- B. Any landlord imposing a tax surcharge shall file with the Rent Review Board a schedule indicating the calculation involved in computing the tax surcharge, including the present and past property taxes of the dwelling, the total number of rentable square feet in the dwelling, the tax increase per rentable square foot, the number of square feet occupied by each tenant and the tax increase for each tenant in the dwelling. Upon filing said schedule, the landlord shall notify each tenant by certified mail or personal service of the monthly surcharge to be paid by said tenant and of the calculation and the information contained in the aforesaid schedule. The applicant shall submit to the Board the total number of groups of pads or lots in the trailer park

or the total number of groups of slips or slips in the floating community, total number of pads or lots or slips in each group and include all specifications of the calculations with the filing and notice of application.

**[Amended 2-13-1980 by Ord. No. 3-1980; 12-9-1987 by Ord. No. 60-1987; 11-30-1988 by Ord. No. 45-1988; 2-28-2007 by Ord. No. 9-2007]**

- C. Any tax surcharge imposed by a landlord shall be payable by each tenant in 12 equal monthly installments.
- D. The Rent Review Board shall process, hear and determine any disputes regarding a tax surcharge in accordance with § 180-4 of this chapter. **[Amended 9-14-1983 by Ord. No. 30-1983]**
- E. In the event of a tax appeal, the portion of a tenant tax surcharge not being paid by the landlord to the municipality will be held by the landlord in an interest-bearing account. In the event that the appeal is successful and the tax reduced, the tenant shall receive 75% of the money held in escrow, together with 75% of the accrued interest after deducting all expenses incurred in prosecuting said appeal. Payment to the tenant shall be made in the form of a credit against the monthly rent or a check made payable to the tenant. The balance shall belong to the landlord. **[Amended 9-14-1983 by Ord. No. 30-1983]**
- F. In the event of a reduction in real property taxes, a tenant shall be entitled to a tax rebate. The landlord shall compute the rebate to which the tenant is entitled by the same formulas used in this section for computing a tax surcharge. Payment to a tenant shall be made in the form of a credit against monthly rent or a check made payable to the tenant.
- G. A landlord may impose a surcharge upon a tenant in an amount equal to the initial connection fee, sometimes called a tapage fee, charged by the Egg Harbor Township Municipal Utilities Authority to the landlord, so long as the application for approval of such a surcharge is filed within one year of the charge being levied against and paid by the landlord. Thereafter, a landlord may impose a surcharge upon a tenant in an amount equal to the increase between the preceding year's usage fee and the current year's usage fee, so long as the increase was levied against and paid by the landlord and so long as the landlord submits an application for such an increase and obtains approval for it from the Board. No such increase will be considered whenever the tenants are individually metered and have the obligation to make payment directly. Further: **[Added 5-13-1987 by Ord. No. 24-1987; amended 12-13-1989 by Ord. No. 48-1989]**
  - (1) Except as provided above, the calculation of the surcharge shall be the same calculations as are required for Subsections A through F of this section.
  - (2) All applications for increases under this Subsection G shall be processed, heard and determined in accordance with § 180-4 of this chapter.

#### **§ 180-9. Capital improvement surcharge.**

**[Amended 2-13-1980 by Ord. No. 3-1980; 12-13-1989 by Ord. No. 48-1989; 4-14-1993 by Ord. No. 16-1993; 10-11-1995 by Ord. No. 25-1995]**

- A. Subject to the same limitations and restrictions on items classified or sought to be classified, as capital improvements as set forth in the definitions of § 180-1 and as contrasted with equivalent level of service, maintenance and repair as found in § 180-6A, a landlord may seek a surcharge for major capital improvements or major additional services not theretofore provided to the tenants and benefitting the rentable housing space in the affected dwellings. The capital improvement surcharge shall not exceed that amount calculated by one of the two following methods:
  - (1) By dividing the cost of the major capital improvements or major additional services by the number of years of useful life claimed for purposes of depreciation for income tax purposes of said improvements or services to determine the average annual cost; then the total number of rentable square feet in the dwelling affected shall be divided into the average annual cost to obtain the annual cost per square foot, which figure shall be multiplied by the number of square feet occupied by the tenant in order to determine the surcharge.
  - (2) By dividing the cost of the major capital improvements or major additional services by the number of years of useful life, as determined by accepted appraisal valuation services of said improvements or services to determine the average annual cost; then the total number of rentable square feet in the dwelling affected shall be divided into the average annual cost to obtain the annual cost per square foot,

which figure shall be multiplied by the number of square feet occupied by the tenant in order to determine the surcharge.

(3) When the application concerns a mobile home park or floating home community, the surcharge for major capital improvements and for additional services or either, as specified above, per pad or lot or slip, shall be calculated by either of the same methods referred to in § 180-8A(2) (a) and (b) (except that the reference to "tax increase" or "tax surcharge" there shall refer here instead to the total cost of the capital improvements or major additional services) as the Board may, within its discretion, subject only to a fair and equitable result to the parties considering the circumstances, deem appropriate. **[Amended 2-28-2007 by Ord. No. 9-2007]**

(4) A group size of pads or lots shall consist of the same square-foot size pads or lots.

(5) The cost of the major capital improvement or major additional services shall include the actual annual financing costs incurred by the landlord with respect to providing the improvements or services. Notwithstanding any provisions in Chapter 180 to the contrary, a landlord may seek and obtain from the Board on an annual basis during the period of the allowed surcharge, on written notice to the Rent Review Board and tenants but without the necessity of a rent increase application or hearing, an allowed adjustment in the surcharge for changes that occur in the actual financing costs. In the event that the tenants seek to decrease or terminate the portion of the surcharge attributable to financing costs on grounds they have decreased or terminated, the Rent Review Board may schedule a hearing and allow testimony, pursuant to the provisions of §§ 180-4, 180-9E and elsewhere in this chapter, to aid it in its decision.

B. In order to qualify and be eligible for a capital improvement surcharge, the major capital improvement or major additional service must meet the following further requirements:

(1) It or they must have been completed (as determined by invoices and other documents the Board may request) within the two years last before the date of the application for the surcharge. Otherwise, the costs, in the interests of timeliness, order, stability and fairness, shall be deemed stale and waived.

(2) To attempt to avoid and eliminate hearings and/or protracted proceedings concerning trivial projects, no claimed cost for major capital improvements or major additional services costing or having a value of \$500 or less shall be considered eligible or qualified. In instances in which it is claimed that repeated costs or component costs of a single project exceed \$500 in the aggregate so as to be eligible and qualified, the Rent Review Board, in its sole discretion, shall determine the issue.

C. Any landlord seeking a major capital improvement or major additional service surcharge shall file with the Rent Review Board an application therefor, together with the appropriate fee and a schedule indicating the calculation involved in computing the major capital improvement or major additional services surcharge, including the total cost of the completed major capital improvement or major additional services, the number of years of useful life of the improvement or services, the average annual cost of said improvements or services, the total number of rentable square feet in the dwelling affected, the average annual cost of the improvement or services per rentable square foot, the number of square feet occupied by each tenant affected and the surcharge for each tenant affected in the dwelling. Upon filing said application, the landlord shall notify each tenant affected, by certified mail or personal service, of the proposed application and of the calculation and information contained in the aforementioned schedule. In the event that an application concerns a trailer park or floating home community, rather than providing the calculations predicated upon the square-foot method, the calculations shall be predicated upon the formula for trailer parks or floating home communities set forth in Subsection A(3) above. The applicant shall submit to the Board the total number of groups of pads or lots in the trailer park or groups of slips or slips in the floating home community, the total number of pads or lots or slips in each group and include all specifics of the calculations with the filing and notice of application.

**[Amended 2-28-2007 by Ord. No. 9-2007]**

D. The surcharge for major capital improvement or major additional services may be continued until the Rent Review Board determines that the cost thereof has been recovered or until the improvement or services cease to benefit the tenants. An affected tenant shall be entitled to apply to the Rent Review Board for a reduction in the surcharge in the event of full recovery by the landlord or a cessation of the services.

- E. The Rent Review Board shall process, hear and determine the matter of major capital improvement or additional major service surcharge in accordance with § 180-4 of this chapter.
- F. In an attempt to avoid confrontational hearings and proceedings and to help avoid incurring the costs of projects without the certainty of approval, landlords contemplating making major capital improvements or adding major additional services having a cost or value in excess of \$10,000 may schedule with the Rent Review Board, on written notice to the tenants by the landlord, informal conceptual discussions regarding the project with the Rent Review Board and interested tenants at any Rent Review Board public meeting (on a date to be selected by the Rent Review Board). Decisions by the Rent Review Board or consensus developed between the Rent Review Board, landlord and tenants shall be nonevidentiary and nonbinding on any later hearing or any formal application by a landlord for a capital improvement surcharge. However, at such later hearing on any formal application, the Rent Review Board may, in its sole discretion, grant the application the status of tentatively deserving of approval and may grant proofs in accordance with the prior decisions made by the Board at the informal discussion meeting as rebuttably correct.
- G. Since a surcharge under this section may only be permitted for purposes of reimbursement to a landlord of the cost of a capital improvement until full recovery thereof by the landlord and since such a surcharge is intended only to be a pass-through of that cost and not rent, it shall be treated as a pass-through only and not as additional rent. Therefore, the surcharge, if allowed, never shall be considered part of base rent for purposes of calculation of any other rent increase under this chapter, including but not limited to the section dealing with an increase based on Consumer Price Index.

**§ 180-10. Hardship surcharge.**

- A. A landlord may apply to the Rent Review Board of the Township of Egg Harbor for a hardship surcharge when the present rents are insufficient to cover the cost of mortgage payments; maintenance; local taxes; current operating expenses which are reasonable, necessary, recurrent and ordinary; or for other special hardships. Nothing shall require the Rent Review Board to award all submitted current operating expenses or other expenses for inclusion in a surcharge. The Rent Review Board shall have the discretion, in its best judgment, subject only to a fair and equitable result to all parties considering the circumstances, to include such submitted expenses, or any of them. A reasonable profit on the surcharge may, in the discretion of the Rent Review Board, subject only to a fair and equitable result to all parties considering the circumstances, be included in the surcharge. The reasonable profit of the surcharge may be considered part of the landlord's rate of return as is set forth in § 180-11 of this chapter. Nothing shall require the Rent Review Board to include within a surcharge the full or partial payments of mortgage principal or interest. The Rent Review Board may consider for inclusion within a surcharge all or such portion of payments of mortgage principal or all or such portion of payment of mortgage interest, or some or none of either or both, as it may, in its discretion and in its best judgment, considering the circumstances, deem fair and equitable to the parties. **[Amended 9-14-1983 by Ord. No. 30-1983; 11-30-1988 by Ord. No. 45-1988]**
- B. Any landlord seeking a hardship surcharge shall file with the Rent Review Board an application therefor together with the appropriate fee and a schedule indicating the calculations involved in computing the hardship surcharge, including the costs of mortgage payments on the affected dwelling (including amortization), taxes thereon, the cost of current operating and maintenance expenses and any other additional relevant financial information utilized in such computation. Upon filing said application, the landlord shall notify each tenant affected by certified mail or personal service of the proposed application and of the calculations and information contained in the aforesaid schedule. The notice required above may be given at the same times as the notice of the hearing as is set forth in § 180-4E of this chapter. **[Amended 9-14-1983 by Ord. No. 30-1983]**
- C. The Rent Review Board shall process, hear and determine the matter of a hardship surcharge in accordance with § 180-4 of this chapter.
- D. The landlord, before seeking relief by way of a hardship surcharge, shall have utilized the benefit of the provisions of this chapter for increases pursuant to §§ 180-7, 180-8 and 180-9 where applicable. **[Amended 9-14-1983 by Ord. No. 30-1983]**
- E. The Rent Review Board, in determining the hardship surcharge, may consider, in addition to the facts submitted by the landlord, past profits, condition of the premises and the degree of hardship to the landlord.

**[Amended 9-14-1983 by Ord. No. 30-1983]**

- F. An increase pursuant to the hardship surcharge section of this chapter shall not be considered an increase in base rents, unless otherwise indicated by the Board when it makes its determination. If it is not an increase in base rents, at the end of a twelve-month period, the surcharge will terminate, and for an extension thereof the landlord must then reapply to the Board pursuant to this chapter as if it were a new application. **[Amended 5-26-1982 by Ord. No. 34-1982; 9-14-83 by Ord. No. 30-1983]**

**§ 180-11. Rate of return.**

**[Added 9-14-1983 by Ord. No. 30-1983]**

- A. The landlord shall be entitled to a just and reasonable return based either on the landlord's investment, as defined by this chapter, or such other method as approved by the law of the State of New Jersey. **[Amended 12-13-1989 by Ord. No. 48-1989]**
- B. The Rent Review Board shall process, hear and determine an application under this section in accordance with § 180-4 and elsewhere of this chapter. In addition to other documents required by § 180-4G, an applicant seeking an increase pursuant to this section shall also be required to supply to the Rent Review Board as part of a complete application "reviewed" financial statements (as the term has meaning to accountants) for all years the applicant asserts are affected years. **[Amended 10-11-1995 by Ord. No. 25-1995]**
- C. The rate to be applied by the landlord, when computing a rate of return as per Subsection A of this section, shall be six percentage points above the interest rate for standard certificates of deposit available at the National Community Bank of New Jersey located in Atlantic County, New Jersey, at the time the application for said increase is submitted to the Board. **[Added 5-13-1987 by Ord. No. 24-1987; amended 10-11-1995 by Ord. No. 25-1995]**
- D. Landlords seeking an increase under this section and/or tenants opposing same may request and obtain a pre-hearing conference or conferences between the respective financial expert or experts of the landlord and/or the tenant and the Rent Review Board's accountant, in an effort to resolve issues before any hearing. **[Added 10-11-1995 by Ord. No. 25-1995]**

**§ 180-12. Increase by agreement.**

**[Added 9-14-1983 by Ord. No. 30-1983]**

- A. The landlord and the tenants may effectuate rent increases by agreement. The agreement must be in writing and signed by the landlord and signed by tenants representing 75%, plus one, of the rental units affected by the rent increase. The written agreement must contain the following information: the old rent; the new rent; the effective date of the new rent; and the amount of increase.
- B. Landlords seeking a rent increase pursuant to this section shall not be obligated to file an application with the Board pursuant to § 180-4 of this chapter, submit a report from the office of the Township Construction Code Official Editor's Note: As to the uniform construction codes, see Ch. 89. nor file with the Board the documents required in § 180-4H of this chapter.
- C. No increase pursuant to this section may take effect until the Rent Review Board makes a final determination concerning the agreement at a public meeting. A copy of the proposed agreement must be submitted to the Rent Review Board and the Rent Review Board's accountant and attorney, for their recommendation to the Rent Review Board, at least 30 days prior to the proposed effective date of the increase. Upon receipt of said agreement, the Rent Review Board Secretary shall schedule a date for the Rent Review Board to consider the agreement. Once the date has been set, the landlord must notify all of the tenants whose rental units are to be affected by the rental increase of the date and time of the meeting and at the same time provide the tenants with a copy of the proposed agreement. Said notification must be by certified mail, return receipt requested, or by personal service. **[Amended 10-11-1995 by Ord. No. 25-1995]**
- D. At the time the Board meets to consider the proposed agreement, the Board may, at its sole discretion, take testimony concerning the proposed agreement. The decision of whether or not to approve the proposed agreement shall remain solely with the Board, who shall also have the authority to modify the agreement as it deems necessary.

- E. The requirements of § 180-5C of this chapter shall remain applicable to an increase pursuant to this section.
- F. During the pendency of any application for rent increase under any section of this chapter, or during the hearing(s) concerning any such application, and prior to a determination and award by the Board concerning a rent increase application, any such application may be converted to an increase by agreement under this section, provided that: **[Added 12-13-1989 by Ord. No. 48-1989]**
  - (1) All provisions of this section are complied with, except as may be noted below.
  - (2) The Board may, in its sole discretion, subject only to a fair and equitable result to the parties considering the circumstances:
    - (a) Waive the requirement for further hearing(s), testimony and notice to the tenants and may proceed to a determination concerning the proposed agreement.
    - (b) Waive the requirement that the agreement be signed by the tenants representing 75%, plus one, of the rental units affected by the rent increase, so long as a majority of the tenants are represented by a tenant's association and the president or chief executive officer of the tenant's association confirms verbally on the record before the Board agreement by a majority of the tenants and further confirms such agreement by his execution and filing of the written agreement with the Board within 30 days thereafter. The effective date of any rent increase in such an instance shall be not less than the end of those same 30 days.

**§ 180-13. Fees.**

**[Amended 2-13-1980 by Ord. No. 3-1980]**

- A. There is hereby established the following schedule of fees for complaints and applications to the Rent Review Board, which fees shall be payable to the Township Clerk of the Township of Egg Harbor: **[Amended 10-11-1995 by Ord. No. 25-1995]**
  - (1) Individual tenant or multiple tenant complaint hearing fee (to be paid by the unsuccessful party): \$25.
  - (2) Landlord application for CPI (§ 180-7) and/or tax surcharge (§ 180-8) and/or landlord application for capital improvement surcharge (§ 180-9) and/or increase by agreement (§ 180-12) and/or tenant group rent review request (§ 180-3): \$600. **[Amended 2-28-2007 by Ord. No. 9-2007]**
  - (3) Hardship surcharge (§ 180-10) or rate of return (§ 180-11): \$100.
- B. Applicants shall pay directly to the court reporter requested to attend that evening such costs and fees as are set by the court reporter's office.
- C. Once a hearing has been scheduled and advertised, there will be a fee of \$50 for the cancellation or rescheduling of the hearing; if granted, the fee will be payable by the party requesting the cancellation or rescheduling. Only those requests for cancellation and reschedule made prior to the meeting being called to order will be subject to this cancellation fee. **[Added 5-13-1987 by Ord. No. 24-1987]**

**§ 180-14. Notices.**

**[Amended 9-14-1983 by Ord. No. 30-1983; 10-11-1995 by Ord. No. 25-1995]**

- A. Within 30 days from the date the completed application of the landlord is received by the Secretary of the Rent Review Board, the Secretary shall notify the landlord, in writing, of the time and place of a hearing. The landlord shall immediately thereafter serve upon each affected tenant, personally or by certified mail, return receipt requested, a notice of the time and place for the hearing, and, if not already required elsewhere in Chapter 180 or accomplished by the landlord, a copy of the application. Nothing herein shall relieve the landlord of other notice requirements that may pertain to specific sections of Chapter 180, including § 180-4F, except that the landlord shall be relieved of any duplicate mailing or service of the application so long as the landlord has complied with the earliest possible mailing or service of the application whenever the landlord may be required by Chapter 180 to duplicate the process. The landlord shall also be required to mail or serve each affected tenant immediately pursuant to the above process with any amended application and with a notice concerning any later continued hearing. Prior to the hearing, the landlord shall file with the Rent Review Board, as a condition precedent to commencing the hearing, satisfactory proof of mailing or proof of service of

said notices or applications.

- B. After the Rent Review Board makes a determination concerning the landlord's application, the Rent Review Board shall notify the landlord, in writing, of its determination and supply to the landlord a copy of its final written resolution, if and when one exists. The landlord shall be responsible for notifying the affected tenants, in writing, of the increased rents in the manner prescribed by the laws of the State of New Jersey governing landlord-tenant relations. The notice shall also include a statement to the effect that any affected tenant may, on request, obtain promptly from the landlord, at a nominal copying cost to the tenant, a copy of the Rent Review Board's final written resolution, if and when one exists.

**§ 180-15. Violations and penalties.**

- A. Any violations of the provisions of this chapter, including but not limited to the willful filing with the Rent Review Board of any material misstatement of fact, shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. **[Amended 12-9-1987 by Ord. No 60-1987]**
- B. A violation affecting more than one leasehold shall be considered a separate violation as to each leasehold.  
Editor's Note: Original Section 14, Short Title, which immediately followed this section, was deleted 12-9-1978 by Ord. No. 60-1987.

**§ 180-16. Waivers.**

Any provision of a lease or other agreement whereby any provision of this chapter is waived shall be deemed against public policy and shall be void, provided that a landlord and tenant may contract to fix rent increases at amounts less than those allowed by the provisions of this chapter.

**§ 180-17. Effective date; effect on prior applications.**

**[Amended 9-14-1983 by Ord. No. 3-1983]**

This chapter shall take effect on October 3, 1983. Applications received by the Board prior to that date shall be governed by ordinances previously in effect. All applications received by the Board on or after that date shall be governed by the terms of this chapter.