

AMENDMENT TO HOUSING ELEMENT AND FAIR SHARE PLAN FOR THE BOROUGH OF WOODCLIFF LAKE

Prepared for:

Planning Board and Borough Council
Borough of Woodcliff Lake
188 Pascack Road
Woodcliff Lake, N.J., 07677

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The original copy of this document was signed and sealed
in accordance with N.J.S.A. 45:14 A-1 et seq.



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I. Introduction & Purpose

This amendment to the Borough of Woodcliff Lake's Housing Element and Fair Share Plan ("HEFSP") amends the HEFSP adopted on June 11, 2018 ("2018 HEFSP"). Those portions of the previous housing plan and amendments that are not amended by the following remain in full force and effect as the policy and implementation document for affordable housing in Woodcliff Lake.

In accordance with Mount Laurel IV, on July 7, 2015, Woodcliff Lake filed a complaint seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC agreed, in November 2017, to settle the litigation and to present an agreement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it ends delays and the expense of trial and results more quickly in the construction of homes for very-low-, low- and moderate-income households. The Township executed a Settlement Agreement with Fair Share Housing Center (hereinafter "FSHC") on November 6, 2017. The Planning Board then adopted a Housing Element and Fair Share Plan that was consistent with that 2017 Settlement Agreement on June 11, 2018. That Settlement Agreement and Housing Plan established the Borough's affordable housing obligation and mechanisms to satisfy the obligation, which notably included a vacant land adjustment.

The Borough executed an amended Settlement Agreement with FSHC on December 14, 2022. This Amended Settlement Agreement was necessitated by the change in developer of the North Broadway site as well as the inclusion of the 188 Broadway site in the Borough's affordable housing plan to resolve various other litigations the Borough has and to ensure the North Broadway site moves forward expeditiously. The purpose of this amendment to the HEFSP is to make the HEFSP consistent with the terms of the amended Settlement Agreement.

II. Amended Fair Share Plan

Affordable Housing Obligations

In accordance with an agreement reached between the Borough of Woodcliff Lake and FSHC, Woodcliff Lake's affordable housing obligations are as follows:

- Rehabilitation Share (Present Need) (per Kinsey Report¹): 19
- Prior Round Obligation (pursuant to N.J.A.C. 5:93): 170
- Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through the settlement agreement): 386

Satisfaction of the Rehabilitation Obligation and Prior Round Obligation

The Borough will address its 19-unit rehabilitation obligation and 170 unit Prior Round obligation in a manner consistent with the 2018 HEFSP.

Satisfaction of the Third Round Obligation

Woodcliff Lake has prepared a Vacant Land Adjustment (VLA) to determine the Borough's realistic developmental potential (RDP). Based on the VLA analysis in the 2018 HEFSP, approximately 19 acres of vacant land exist within the Borough which would be suitable for inclusionary multifamily residential development. Assuming that all such parcels suitable for inclusionary multifamily residential development were rezoned accordingly at the presumptive minimum density of 10 units per acre and with a mandatory set-aside of 20 percent, the Borough had an RDP of 29 affordable housing units. However, based on the extension of additional units at the Centennial Way site and the potential for additional units at the North Broadway site, the Borough agrees that its Third Round RDP is increased to **43 units**.

The proposed affordable housing mechanisms that would address Woodcliff Lake's Third Round RDP of 43 units are discussed below and shown in Table 1, Entitlement to Third Round Affordable Housing Credits for Planned Projects.

1. Centennial Court (Extend Affordability Controls): 8 units

In accordance with its 1993 court-approved compliance plan, Woodcliff Lake acquired and developed the Hill site (Block 302, Lots 1.1-1.22), also known as Centennial Court, with 22 affordable owner-occupied

¹ David N. Kinsey, PhD, P.P., FAICP, New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology, May 2016.

units. Affordability controls were placed on these units in June 1995 and were imposed for a period of at least 20 years, unless extended by municipal resolution. Since adoption of the 2018 HEFSP, the Borough established a program to extend affordability controls on for-sale units set to expire within the Centennial Court development. The Borough offered eligible homeowners a figure that more than adequately exceeded the 5 percent return to which the seller was entitled to, plus an additional amount as an incentive to extend controls. The 2018 HEFSP indicated that controls would be extended on 5 units at Centennial Way. Based on the success of the extension of controls program, this amendment increases that number to **8 units**. These affordability controls have already been extended on these 8 units.

2. North Broadway (100% Affordable Family Rentals and Supportive Housing Beds): 24 units

Since the Second Round in the 1990s, the Borough has spent over a million dollars from its Affordable Housing Trust Fund to purchase three lots located on Broadway (Block 2602, Lots 1, 2 and 9), just north of Highview Avenue, to build a 100% affordable housing project. The site is proximate to the Woodcliff Lake New Jersey Transit train station, as well as shopping areas along Broadway to the south of the site. In the 2018 HEFSP, the Borough committed to provide 16 units of affordable family rental housing on the site by soliciting proposals from affordable housing developers. In the intervening years, attempts to find a developer proved difficult.

However, in 2022, the Borough negotiated an agreement with a new developer of the North Broadway site, Bergen County United Way (“BCUW”) and the developer of the 188 Broadway site. As part of this agreement, the Borough would provide a realistic opportunity for the development of at least 24 units of affordable housing on the North Broadway site including family rental units and supportive housing units. The details of the settlement are provided below:

- a. The 188 Broadway site (Block 2701, Lot 3) will be developed with 46 total residential units including 37 market rate rental apartments and 9 market rate for-sale townhomes. Pursuant to the Borough’s mandatory set-aside ordinance, this development scenario must provide at least 8 units of affordable housing. The developer of 188 Broadway will work in concert with the Borough and the developer of the North Broadway site (i.e., BCUW) to create a realistic opportunity for the development of these 8 units on the North Broadway site. The developer will also make a payment of \$300,000 to the Borough’s Affordable Housing Trust Fund.
- b. The North Broadway site will be developed with 24 units including 20 family rental apartment units and four 1 to 2-bedroom supportive units. The 20 family rental apartment units shall have a bedroom distribution consistent with the Uniform Housing Affordability Controls. However, the developer will make efforts to provide additional two- and three-bedroom apartments to compensate the potential loss of family rental housing elsewhere in the Borough.
- c. The Borough and the developers of the North Broadway and 188 Broadway sites agree to phase the construction of these developments in order to create the realistic opportunity for the creation of low- and moderate-income units.
- d. The Borough and the developer of the 188 North Broadway site will ensure there is sufficient funding to construct the North Broadway site. If the developer of the North Broadway site is unable

to construct the project, the developer of 188 Broadway shall take over and begin construction of the North Broadway site at the sole cost and expense of the Borough.

Table 1. Entitlement to Third Round Affordable Housing Credits for Planned Projects

Plan Component	Type	Units	Anticipated Bonus Credits	Total Credits
Centennial Court	Extend Affordability Controls	8	N/A	8
North Broadway	100% Affordable Family Rentals	20	10	30
North Broadway	Supportive Housing	4	1	5
Total		32	11	43

Mechanisms to Address Unmet Need

The RDP of 43 units subtracted from the Third Round obligation of 386 units results in an unmet need of 343 units. This unmet need, plus the unmet need of 88 units from the Prior Round, will be addressed through the following mechanisms:

1. **Round 2 Surplus Units:** 6 units
2. **Centennial Way Extension of Controls (Family For-Sale)**
As described above, the Borough agreed to build 22 affordable housing units on Centennial Way, which it did, and imposed a restriction requiring occupancy/ownership by low- and moderate-income households for 20 years. Such controls have expired, or are due to expire. The Borough offered each owner a payment to extend such controls for an additional 30 years from the end of the affordability period. The Borough offered eligible homeowners a figure that more than adequately exceeds the 5 percent return to which the seller is entitled to at the end of the affordability period, along with continued reduced tax assessments, plus an additional amount of \$5,000 as an incentive to extend controls.
3. **Teva Overlay Zone (Block 402, Lot 2)**
The Borough adopted inclusionary overlay zoning that permits the reuse of the vacant Teva office building as is, or alternatively, a 100 unit age-restricted project subject to the Borough’s mandatory affordable housing set aside.
4. **VFW Property (Block 25, Lot 1)**
As part of the 2018 HEFSP, the Borough agreed to adopt overlay zoning which would permit a 12-unit 100 percent affordable rental project for veterans and their families on the former VFW site (Block 25, Lot 1) located to the north of Woodcliff Avenue on North Broadway. In 2018, the Borough adopted Ordinance No. 18-10 which created the Veterans Affordable Housing Overlay District (AH-VO) on the VFW site which is in the R-22.5 zone. The underlying zoning would remain.

The amended Settlement Agreement with FSHC recognizes the physical and environmental constraints on the property and sets forth a process for establishing definitively what can be built on this property moving forward. The intent is to develop the property with 8 family rental units. If that is not realistic, the property shall be developed with affordable housing types to be determined by the developer and the Borough in accordance with applicable law and subject to approval by the court after a recommendation from the Special Master.

5. **AHO Overlay Zone Continuance (Block 2303, Lots 6 and 7)**

An affordable housing overlay zone was adopted by the Borough over the Comfort Auto Rental site (at the Hillsdale border) in the Second Round. This overlay zone will remain as part of the Borough's affordable housing plan and will continue to mandate that 20 percent of the units in any future residential project be restricted to low- and moderate-income households.

6. **Mandatory Set-Aside Ordinance**

As an additional mechanism to address unmet need, the Borough will adopt a mandatory set-aside ordinance so as to establish zoning standards that provide for an inclusionary zoning requirement on future multifamily development of five or more units in the Borough developed through planning or zoning board approval or a redevelopment or rehabilitation plan, requiring a set-aside of at least 20 percent of all units.

7. **Amended B-1 Zoning to Permit Mixed-Use Development**

In 2022, the Borough adopted Ordinance No. 22-06 which amended the Borough's zoning code to place Block 2701, Lots 2, 3, 4, 4.01, 4.02, and 5 in the B-1 Zone and permit mixed-use development with a residential density of 10 dwelling units per acre. Any residential development in this zone is subject to the Borough's mandatory set aside ordinance.

Rosengren Settlement

The Borough negotiated a settlement with Rosengren, the owner of a ±7 acre parcel located on Old Pascack Road and Pascack Road, i.e., Block 2205.01, Lots 2.01, 3, 4, 5, and 6 ("Rosengren Site"), to build 15 townhouse units, all of which would be high-end, market rate townhouses. The site was previously approved for a five lot single-family subdivision, and Rosengren sought to have the site rezoned to permit 43 townhouses. Essentially, instead of permitting 43 townhouses, a three-unit townhouse would be permitted in place of each of the five single-family homes. The cul-de-sac road that has already been constructed would still be utilized to provide access to these units. In exchange for this rezoning, Rosengren will contribute \$600,000 to the Borough's Affordable Housing Trust Fund. These funds will be utilized to support and supplement Borough expenditures on extending affordability controls at Centennial Way and the development of the North Broadway affordable family rental project, as described above.

Summary

This amendment to the Fair Share Plan provides realistic opportunities for the provision of new affordable housing units and rehabilitation of existing substandard units, in light of the Borough’s limited resources – both in monetary terms and with regard to the limited amount of vacant land in the Borough. Table 2, The Borough of Woodcliff Lake Entitlement to Affordable Housing Credits for the Third Round, summarizes the affordable housing mechanisms that address Woodcliff Lake’s Third Round RDP of 43 units.

Table 2. The Borough of Woodcliff Lake Entitlement to Affordable Housing Credits for the Third Round

CREDITS APPLIED TOWARDS THIRD ROUND OBLIGATION				
<i>Affordable Development</i>	<i>Type</i>	<i>Units</i>	<i>Bonus Credits</i>	<i>Total Credits Plus Bonuses</i>
Centennial Court	Extension of Affordability Controls	8	N/A	8
North Broadway	100% Affordable Family Rentals	20	10	30
North Broadway	Supportive Housing	4	1	5
Total		27	8	43

Other Requirements

The Borough will require that 13 percent of all units referenced in this plan, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 17, 2008, to be very low-income units, with half of the very low-income units being available to families. The Borough will comply with these requirements as follows:

- North Broadway Family Rental: Three units of very low-income family housing will be constructed in the 100 percent affordable family rental project at North Broadway.
- North Broadway Supportive Housing: Four supportive housing units shall be reserved for very low-income tenants.
- Thirteen (13) percent of the affordable units created as a result of the unmet need mechanism described above shall be very low-income.

At least 50 percent of the units addressing the Third Round RDP and Unmet Need shall be affordable to very low-income and low-income households with the remainder affordable to moderate-income households.

At least 25 percent of the Third Round RDP and Unmet Need shall be met through rental units, including at least half in rental units available to families.

At least half of the units addressing the Third Round Realistic Development Potential and Unmet Need in total must be available to families.

The Borough will comply with an age-restricted cap of 25 percent. The Borough will, in no circumstance, claim credit towards its fair share obligation for age-restricted units that exceed 25 percent of all units developed or planned to meet is cumulative Prior Round and Third Round Fair Share obligation.

All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:270-311 a and - 311 b and all other applicable law.

All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1 et seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at least 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income pursuant to the Fair Housing Act.

All of the affordable units shall be subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the unit from such controls after at least 30 years. If the Borough acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the income-eligible occupant household in accordance with N.J.A.C. 5:80-26.11 (b).

In inclusionary developments, the affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market units. The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified in this agreement, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.