

RESOLUTION ADOPTING AMENDED AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, the Borough of Tinton Falls (“Borough”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Application of the Borough of Tinton Falls, Docket No. MON-L-2475-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about April 20, 2018 establishing the Borough’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Borough will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court entered an order on November 7, 2018 approving the Settlement Agreement by and between the Borough and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the court order approving the Settlement Agreement and regulations adopted by the New Jersey Council on Affordable Housing (“COAH”) require a municipality with an Affordable Housing Trust Fund to receive approval of a Spending Plan prior to spending any of the funds in its Trust fund; and

WHEREAS, these regulations required a Spending Plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds;
5. A schedule for the expenditure of all affordable housing trust funds;
6. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
7. A plan to spend the trust fund balance in accordance with the implementation schedule within the Spending Plan and approved by a settlement agreement;
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the Plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, Borough of Tinton Falls adopted Resolution R-19-057 approving a Spending Plan consistent with the Borough’s Settlement Agreement and submitted it to the Court for review and approval; and

WHEREAS, the Court entered a Third Round Judgment of Compliance and Repose in the Borough’s favor on July 17, 2023 approving the Borough’s Third Round Housing Element and Fair Share Plan including its Spending Plan protecting the Borough from builder’s remedy lawsuits through July 1, 2025; and

WHEREAS, the Borough’s Special Planner has recommended that the Borough amend and update its Spending Plan to reflect the monies accumulated and spent in the Affordable Housing Trust Fund since the Judgment of Repose was entered; to incorporate projected development fees through 2025; to fund the extension of expiring controls; and to update the expenditure schedules for the rehabilitation and affordability assistance programs.

WHEREAS, the Borough Council believes it is in the best interest of the Borough to update its Spending Plan for its Affordable Housing Trust Fund monies to ensure and maximize compliance with its Third Round Judgment of Repose and Compliance.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls, County of Monmouth, hereby adopts the amended Affordable Housing Trust Fund Development Fee Spending Plan dated May 15, 2023.

John Manginelli
John Manginelli, Council President

BOROUGH OF TINTON FALLS COUNCIL

Council Member	Moved	Second	Ayes	Nays	Absent	Abstain
Ms. Buckley			X			
Mrs. Clay	X		X			
Dr. Dobrin			X			
Mr. Nesci		X	X			
Mr. Manginelli			X			

CERTIFICATION

I, Michelle Hutchinson, Borough Clerk of the Borough of Tinton Falls, hereby certify the foregoing to be a true copy of a resolution adopted by the Tinton Falls Borough Council at their meeting held June 13, 2023.

WITNESS, my hand and the seal of the Borough of Tinton Falls this 13th day of June, 2023.

Michelle Hutchinson
Michelle Hutchinson
Borough Clerk



**Affordable Housing Trust Fund
Development Fee Spending Plan
Borough of Tinton Falls
May 15, 2023**

INTRODUCTION

The Borough of Tinton Falls, Monmouth 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), the stipulations within the Borough's Settlement Agreement with Fair Share Housing Center, and in accordance with N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:91-1 et seq. A development fee ordinance creating a dedicated revenue source for affordable housing has been adopted and serves as a mechanism to provide revenue for the Borough's Affordable Housing Trust Fund ("AHTF"), which will be allocated and spent in accordance with this Spending Plan.

1. REVENUES FOR CERTIFICATION PERIOD

Since August 1, 2008, when the Borough of Tinton Falls AHTF had a balance of \$1,220,417.59, the Borough collected \$2,998,613.66 and expended \$3,109,880.37, resulting in a balance of \$1,109,150.88 as of December 31, 2018. Subsequently, from January 1, 2019 through December 31, 2022 the Borough collected and expended additional funds resulting in a balance of \$2,182,762.68. 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 AHTF in for the purposes of affordable housing. These funds shall be spent in accordance with applicable affordable housing regulations as described in the sections that follow.

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Borough of Tinton Falls 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 board 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 since 2008, balancing the increase in mandatory development fees with the built-out nature of the Borough.

(b) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing loans, rental income, and proceeds from the sale of affordable units. All monies in the AHTF are anticipated to come from development fees and interest.

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(c) Projected interest:

Interest projected revenue in the municipal affordable housing trust fund at the current average interest rate. The interest rate is variable but as of December 31, 2022 the rate was 1.51%.

Starting Balance (12/31/2022)	\$2,182,762.68			
SOURCE OF FUNDS	2023	2024	2025	Total
(a) Development Fees:	\$750,000.00	\$750,000.00	\$750,000.00	\$2,250,000.00
1. Approved Development	\$450,000.00	\$450,000.00	\$450,000.00	\$1,350,000.00
2. Development Pending Approval	\$250,000.00	\$250,000.00	\$250,000.00	\$750,000.00
3. Projected Development	\$50,000.00	\$50,000.00	\$50,000.00	\$150,000.00
(b) Payments in Lieu of Construction	0	0	0	\$0.00
(c) Other Funds	0	0	0	\$0.00
(d) Interest on Total Account Balance	\$20,000.00	\$20,000.00	\$20,000.00	\$60,000.00
Total Projected Revenue 2023-2025	\$770,000.00	\$770,000.00	\$770,000.00	\$2,310,000.00
Total Revenue (Existing Balance + Projected Revenue)	-	-	-	\$4,492,762.68

The Borough of Tinton Falls projects a total of \$2,250,000.00 in revenue, including and \$60,000.00 in interest to be collected between January 1, 2023 and December 31, 2025, which yields a total of \$2,310,000.00. This projected amount, when added to the Borough's current AHTF balance of \$2,182,762.68, results in anticipated total revenue of \$4,492,762.68 available to fund and administer its affordable housing plan. All interest earned on the account shall accrue to the account and 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 the Borough of Tinton Falls:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Tinton Falls' development fee ordinance for both residential and non-residential developments in accordance with Department of Community of Affairs 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:

Any requisition for affordability assistance, administrative costs (routine expenditures), or affordable housing development (significant expenditures) to the Finance Department recommending the expenditure of development fee revenues in this Spending Plan must

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Development Fee Spending Plan

be approved by the Tinton Falls Borough Council. The Finance Department shall review the request for consistency with the Spending Plan. Once a request is approved for consistency by the Finance Department, the request is presented to the Council for approval. After receiving Council approval, the funds may be disbursed.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation Program (N.J.A.C. 5:97-8.7)

Tinton Falls Borough will dedicate an average of \$20,000.00 per unit to rehabilitation projects. The Borough has an obligation to rehabilitate 89 units. As 13 units have been rehabilitated by the County since 2010, and 12 additional units are anticipated to be rehabilitated by the County through 2025, the Borough expects to rehabilitate 64 units through 2025. An outline of these expenditures can be found in Table 4.

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

Projected minimum affordability assistance requirement:

Table 2. Minimum Affordability Assistance		
Actual development fees & interest 8/1/2008 through 12/31/2022		\$5,611,527.97
Development fees projected 2023-2025	+	\$2,250,000.00
Interest projected 2023-2025	+.+	\$60,000.00
Less housing activity expenditures 8/1/2008 through 12/31/2022	-	\$3,357,824.47
Total	=	\$4,563,703.5
30 percent requirement*	x0.30 =	\$1,369,111.05
Less affordability assistance expenditures through 12/31/2022	-	\$372,739.38
Projected Minimum Affordability Assistance Requirement 1/1/2023 through 12/31/2025	=	\$996,371.67
Projected Minimum Very Low-Income Affordability Assistance Requirement 1/1/2023 through 12/31/2025	x0.34 =	\$338,766.37

* Actual affordability assistance minimums are calculated on an ongoing basis, and are predicated upon actual revenues collected through 2025.

Tinton Falls Borough will dedicate \$996,371.67 from the Affordable Housing Trust Fund to render units more affordable, including \$338,766.37 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

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

Table 3. Administrative Expense Calculation.		
Actual development fees and interest through 12/31/2022		\$5,611,527.97
Development fees projected 1/1/2023-12/31/2025	+	\$2,250,000.00
Payments-in-lieu of construction and other deposits through 12/31/2022	+	\$607,264.58
Less RCA expenditures through 12/31/2022	-	\$0.00
Total	=	\$8,468,792.55
Calculate 20 percent	x.20	\$1,693,758.51
Less administrative expenditures through 12/31/2022	-	\$968,328.21
Projected maximum available for administrative expenses 1/1/2023 through 12/31/2025	=	\$725,430.30

The Borough has expended \$968,328.21 on administrative fees through December 31, 2022, leaving a remaining available administrative expenditure balance of \$725,430.30 through December 31, 2025. Projected administrative expenditures, subject to the 20 percent cap, are as follows: Professional Planner fees, Administrative Agent fees, Attorney fees and other fees for similar services as permitted by law as it pertains to the implementation of the affordable housing programs set forth in this Spending Plan.

4. EXPENDITURE SCHEDULE

The Borough of Tinton Falls intends to use affordable housing trust fund revenues as set forth in the Housing Element and Fair Share Plan and is summarized as follows:

Table 4. Projected Expenditure Schedule 2023-2025				
Programs	2023	2024	2025	Total
Rehabilitation Program	\$426,667.00	\$426,667.00	\$426,666.00	\$1,280,000.00
Extension of Expiring Controls	\$236,667.00	\$236,667.00	\$236,666.00	\$710,000.00
Tinton Falls Senior Housing Generator and Associated Improvements*	\$73,000.00	\$0.00	\$0.00	\$73,000.00
Affordability Assistance	\$332,124.00	\$332,124.00	\$332,123.00	\$996,371.00
Administration	\$120,000.00	\$120,000.00	\$180,000	\$420,000.00
Total	\$1,188,458.00	\$1,115,458.00	\$1,175,455.00	\$3,479,371.00

* Affordability Assistance Funds will be utilized for this project.

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The Borough intends to fund a total of seventy-one (71) extension of expiring controls at \$10,000 per unit, which is estimated to require \$710,000. In addition, a total of \$73,000 of affordability assistance funding has been designated to be applied toward purchase and installation of a generator at the Tinton Falls Senior Housing development (Block 124, Lot 19.01).

5. EXCESS OF FUNDS

In the event that more funds than anticipated are collected, these excess funds will be used to fund additional rehabilitation and/or affordability assistance programs.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough's Affordable Housing Ordinance in accordance with .N.J.A.C. 5:97-8.5. A process describing the collection and distribution procedures for barrier free escrow funds pursuant to .N.J.A.C.. 5:97-8.5 is detailed within the Affordable Housing Ordinance.

SUMMARY

Tinton Falls Borough intends to spend Affordable Housing Trust Fund revenues pursuant to N.J.A.C. 5:93-8 and consistent with the housing programs outlined in the Housing Element and Fair Share Plan. The Borough has a balance of \$2,182,762.68 as of December 31, 2022 and anticipates an additional \$2,310,000.00 in revenues, including interest, by December 31, 2025 for a total of \$4,492,762.68. The Borough will dedicate funding to several programs as shown within Table 5, below. This will leave a balance of \$1,013,391.68, which the Borough will reserve in the event that an additional affordable housing project becomes necessary.

Table 5. Spending Plan Summary	
Balance as of December 31, 2022	\$2,182,762.68
Revenue	
Projected Revenue 2023-2025	\$2,310,000.00
Development Fees	\$2,250,000.00
Other Funds	\$0
Interest	\$60,000.00
TOTAL REVENUE	\$4,492,762.68
Expenditures	
Rehabilitation Program	\$1,280,000.00
Extension of Expiring Controls	\$710,000.00
Tinton Falls Senior Housing Generator and Associated Improvements*	\$73,000.00
Affordability Assistance	\$996,371.00
Administration	\$420,000
TOTAL PROJECTED EXPENDITURES	\$3,479,371.00
REMAINING BALANCE	\$1,013,391.68