§ 161-2. Requirements for low and moderate income housing.

A. Definitions. For the purposes of this Section 161-2, certain words and phrases are defined as follows:

1. **Affordable dwelling unit** shall mean a low or moderate priced dwelling unit as defined herein.

2. **Affordable rental charges** shall mean a monthly rent excluding utilities charged to an eligible low or moderate income family which shall not exceed 30 percent of their monthly gross income.

3. **Affordable sales price** shall mean a sales price to an eligible low or moderate income family which does not require the family to spend more than twenty-eight percent (28%) monthly gross family income toward total monthly housing costs for sales units.

4. **Applicant** shall mean a family which applies for certification as a qualified purchaser or renter for a specific unit.

5. **Application for initial purchaser or renter** shall mean the form provided by the management of the affordable housing development to be filled out by applicants who wish to be certified by the office as eligible families.

6. **Application for resale or re-rent** shall mean the form provided by the office to be filled out by applicants who wish to be certified as eligible and placed on the waiting list for the size of unit desired.

7. **Approved improvements** shall mean those improvements made by the initial or subsequent owner with the approval of the office.

8. **Certification** shall mean the approval by the office of an applicant as an eligible purchaser or renter for a low or moderate income unit.

9. **COAH** means the New Jersey Council on Affordable Housing.

10. **Eligible low or moderate income family** shall mean a family consisting of one (1) or more persons living together as a housekeeping unit whose gross aggregate family income does not exceed the limits established in this section.

11. **Gross aggregate income** shall mean the total income from all sources of all members of the household or family, as determined and adjusted in accordance with the rules and regulations set forth by the office. Consideration shall also be given to assets for which inadequate or no income is show as the office deems appropriate based upon the U.S. Department of Housing and Urban Development (HUD) guidelines regarding assets for the Section 8 or any successor program.

12. **HUD** means the U.S. Department of Housing and Urban Development.

13. **Inclusionary development** means a residential housing development in which at least twenty percent (20%) of the housing units in the development are provided for low and moderate income households.

14. **Income ceiling on low or moderate income levels** shall mean up to fifty percent (50%) of the median regional income for low income; and up to eighty percent (80%) of the median regional income for moderate income as established by HUD Burlington County.
New Jersey PMSA, with adjustments as established by HUD for families of different sizes.

15. **Initial purchaser or renter** shall mean the first eligible low or moderate income family to occupy an affordable dwelling unit.

16. **Low and moderate priced dwelling units** shall mean rental or sales dwelling units approved or constructed pursuant to the municipal ordinances to provide housing for families of low or moderate income as defined in this section.

17. **Median income** shall mean and refer to the average annual median family income for the PMSA for Burlington County, New Jersey, as computed, published and adjusted for household size by HUD of such successor amount as shall be prepared and so adjusted by an entity or entities of the federal government, or such area or such amount that may be accepted pursuant to order by COAH for the purpose of establishing median family income to determine housing price levels.

18. **Office** shall mean the office of housing and redevelopment of the municipality.

19. **Owner** shall mean the family holding title to a dwelling unit in the case of a sales unit or the developer or subsequent acquirer of the development in the case of rental dwelling units.

20. **Qualified purchaser or renter** shall mean and refer to a person who: (i) submits an application for certification as a qualified purchaser or renter to the management of the unit which that person wishes to purchase or rent; (ii) whose gross aggregate family income at the time of the proposed purchase or rental of an affordable unit is within low or moderate income levels, as defined herein; and (iii) who obtains certification as a qualified purchaser or renter of an affordable unit from the office as set forth in this section.

21. **Restriction** shall mean those restrictions on sale, resale, rental, or re-rental of housing units whether through this section or through deed.

22. **Subsequent purchaser or subsequent renter** shall mean each and every purchaser or renter after the initial purchaser or renter of an affordable unit.

23. **Total monthly housing costs for sales units** shall mean the total of the following monthly payments associated with the cost of the housing mortgage payment (principal, interest, private mortgage insurance), together with applicable assessments by homeowner associations; real estate taxes, and fire, theft and liability insurance.

24. **Total monthly housing costs for rental units** shall mean total rent paid excluding utilities.

25. **Unit distribution** shall mean the distribution of efficiency, one (1) bedroom, two (2) bedroom and three (3) or more bedroom units.

26. **Utilities** shall mean electric, gas, and heat and shall exclude water, sewer, common electricity, garbage collection, telephone and cable television.

27. **Waiting list** shall mean the list of eligible families who were unable to purchase or rent a unit at initial sale or rental and are waiting to purchase or rent a unit as such units become available.

B. **Selection process.**
1. **Eligibility requirements.** Prospective purchasers or renters must be eligible low or moderate income families as defined under Section 161-7.A.

2. **Priority.** Priority shall be given to those households who live and work in New Jersey on a regional basis as designated by COAH. In this case, the Township of Evesham, Burlington County, is located within COAH's Housing Region V, which includes, Camden, Burlington, Gloucester and Mercer Counties.

3. **Waiting list.** At the time when all units in any category (e.g., efficiency, one (1) or two (2) or three (3) bedroom units for low or moderate income families having been sold or rented, the office will establish a waiting list for the purchase or rental as the units become available in the future. The families on the waiting list will be ranked according to the same priority ranking standards as set forth for the initial selection of sale or rental units.

4. **Recertification.** The director of the office shall submit policy and procedure changes to the governing body including procedures on recertification of families on the waiting list to insure the list remains current and families on the list are qualified for the units for which they applied.

C. **Guidelines.**

1. **Application procedure--Initial sales and initial rental.** The developer will provide applicants with application forms approved by the office. Applicants will return the completed forms to the developer for the units desired. Forms must be filled out completely. Knowingly or intentionally making any false statements in a form shall be grounds for disqualifying an applicant, even if the applicant otherwise meets the requirements of this Section. Those applicants, who after the necessary income and other checks by the developer, are found to meet the criteria will, prior to the sale or rental of the unit, have their applications and completed authorization to release financial information form, where applicable, sent by the developer to the office for certification. Those applicants who do not meet the criteria, have not submitted a completed application, or for whom no unit is available will be so notified by the developer. Copies of these notifications will be sent to the office. Those applicants who meet the criteria but for whom there is no unit available will be contacted by the office to determine if they wish to be placed on the eligible waiting list. The developer will upon request of the office make all applications and inquiries available for review by the office.

2. **Application procedure--Resale and re-rental.** Applicants will pick up forms from the office. Applicants will return the completed forms for the units desired to the office for review to determine eligibility based on the criteria and priorities set forth by the COAH and this section. Applicants will be notified as to their eligibility and/or placement on the waiting list. Forms must be filled out completely. Knowingly or intentionally making any false statement in a form shall be grounds for disqualifying an applicant, even if the applicant otherwise meets the requirements of this section.

D. **Restrictions.**

1. Initial or subsequent owners of affordable housing units must maintain the unit as their prime residence. In addition, they may not lease their units.

2. Initial or subsequent renters of affordable housing units must maintain the units as their prime residence. In addition, they may not sublet their units.

E. **Affordable sales price.**
1. The preliminary affordable sales price shall be determined such that the sum of the monthly payments for principal, interest, mortgage insurance, real estate taxes, fire, theft and liability insurance and homeowner association fees, if any, does not exceed twenty-eight percent (28%) of the maximum income for low income or moderate income families as set forth in the rules and regulations of the COAH.

2. The following assumptions shall be made:
   a. A ten percent (10%) down payment requirement and a thirty (30) year mortgage term with a fixed interest rate shall be assumed in making this application.
   b. In calculating the monthly interest payment, the interest rate provided by the developer and approved by the office shall be utilized. All interest rates or permanent financing proposals including points, application fees, origination fees, mortgage insurance, other fees and the assurance that such mortgages are available will be submitted to the office by the developer at least thirty (30) days prior to the advertising of the units and review by the office. The office will, in writing, disapprove or make recommendations to the developer regarding modifying the proposals.

3. The final sales price of units designated for low income families shall be set by the office in compliance with the pricing stratification rules and regulations of the COAH, in order to assure that the unit is affordable to a range of families whose income is less than the low income ceiling. The final sales price assumes a family of one (1) for an efficiency unit, a family of two (2) for a one (1) bedroom unit, a family of three (3) for a two (2) bedroom unit, a family of five (5) for a three (3) bedroom unit and a family of six (6) for larger units.

4. The final sales price for units designated for moderate income families shall be set by the office in compliance with the pricing stratification rules and regulations of the COAH in order to assure that the unit is affordable to a range of families whose income is less than the moderate income ceiling. The final sales price assumes a family of one (1) for an efficiency unit, a family of two (2) for a one (1) bedroom unit, a family of three (3) for a two (2) bedroom unit, a family of five (5) for a three (3) bedroom unit and a family of six (6) for larger units.

5. Developers of affordable sales units may sell their units only to families qualifying as low or moderate income as the applicable case may be.

6. No new affordable sales unit may be sold to the first owner for a price higher than the maximum sales price as set by the office in accordance with the pricing stratification rules and regulations of the COAH.

F. Affordable rental charges.

The following procedure shall apply to determine affordable rental charges upon rental of an affordable rental unit.

1. A preliminary rental charge shall be calculated such that the sum of the monthly rental payment, excluding utilities, does not exceed thirty percent (30%) of the low or moderate income ceiling.

2. If the cost of utilities is included by the developer in the monthly rental charge, an estimated monthly cost for the utilities included in the rent shall be calculated by the office for each unit type using HUD Section 8 guidelines or successors thereto. This
estimated charge will be added to the average rent to determine the maximum rental charge that may be imposed for each low and moderate income unit.

3. The average rental charge to a low income family shall be ninety percent (90%) of the preliminary rental charge, plus the cost of utilities included in the rent, in order to assure that the unit is affordable to a range of families whose income is less than the low income ceiling. The preliminary and average rental price assumes a family of one (1) for an efficiency unit, a family of two (2) for a one (1) bedroom unit, a family of three (3) for a two (2) bedroom unit, a family of five (5) for a three (3) bedroom unit and a family of six (6) for larger units.

4. The average rental charge to a moderate income family shall be ninety percent (90%) of the preliminary rental charge, plus the cost of utilities included in the rent, in order to assure a reasonable income distribution of moderate income families. The preliminary rental charge assumes a family of one (1) for an efficiency unit, a family of two (2) for a one (1) bedroom unit, a family of three (3) for a two (2) bedroom unit, a family of five (5) for a three (3) bedroom unit and a family of six (6) for larger units.

5. Annual rent increases for low and moderate income rental units shall not exceed the average interest increases in median income for the Burlington County PMSA as established by HUD. There shall be no more than one (1) rental increase per annum. Rental charges shall not be increased without the prior written approval of the office. This approval shall be granted by the prior written approval of the office. This approval shall be granted by the office if the average HUD median income levels are not being exceeded.

6. Developers and owners of affordable rental units may rent their units only to families qualifying as low or moderate income as the applicable case may be except as may be permitted otherwise in this section.

7. No unit may be rented to the first occupant at a rental charge higher than the average rental price, plus utilities included in the rent.

G. Preliminary and final prices.

1. For the purpose of determining maximum sales prices and preliminary and average rental charges Tables 1 through 4 included at the end of this Section 161 - 7 may be used as a guide.

   a. Table 1 contains the maximum affordable sales prices for low income condominium ownership.

   b. Table 2 contains the maximum affordable sales prices for moderate income condominium ownership.

   c. Table 3 contains the preliminary and average affordable rental charges excluding utilities for low income units.

   d. Table 4 contains the preliminary and average affordable rental charges excluding utilities for moderate income units.

2. The following assumptions were made in preparing the sales table.

   a. A ten percent (10%) down payment and a mortgage with a fixed interest rate, thirty (30) year term.
b. The property tax rate of $5.65 per $100 assessed value. Assessed value was determined by taking 41.24 percent of the purchase price.

c. Fire and theft insurance for personal property and liability insurance was estimated to be $120 per annum.

d. Condominium fee of $396 per annum. This includes fire insurance for the unit.

e. Developers shall submit to the office the various sales prices as set by the COAH housing pricing stratification rules and regulations and/or preliminary rental and average rental charges for all affordable dwelling units within thirty (30) days prior to the advertisement of the availability of affordable housing units. Included in the submission for sales units shall be the appropriate documentation regarding down payment, mortgage term, mortgage interest rate approved by the office, property tax rate per $100 assessed valuation, points, and origination fees, other fees, property taxes, fire theft, liability insurance and condominium fees if applicable. For affordable rental units, the submission shall include the preliminary rent excluding utilities, utility costs included in rental payments and the average rent. The office shall approve or modify the average sales price and/or average rental cost within fifteen (15) working days from receipt of the sales or rental submission.

H. Resale or re-rental.

1. Resale and re-rental restrictions shall be included in the deed for each affordable housing unit. Such restrictions shall run with the land and the subject unit and the restrictions as set forth in this Section may not be terminated for a period of twenty (20) years.

2. Owners of low or moderate priced sales units may sell their units only at or below the maximum resale price as calculated herein. Owners of low or moderate rental units shall upon re-rental rent their units as per Section 161 - 7 E.6. Affordable dwelling units may be resold or re-rented only to families qualifying as low and moderate income, as the case may be, except as set forth in this section. Owners of affordable units being offered for resale or re-rental shall notify the office, in writing, indicating the type of unit available. The office, through its waiting list, shall provide the owner with a listing of eligible purchasers or renters.

3. The owner will contact the eligible purchaser(s) or renter(s) to examine the unit. For resale units, prior to the viewing of the unit, the office will have the municipal housing inspector inspect the unit for code violations.

4. The owner of an owner-occupied affordable housing unit for sale shall not sell the unit at a resale price greater than an established base price plus the allowable percentage of increase as determined by the Index applicable to the municipality in which the unit is located. However, in no event shall the approved resale price be established at a lower level than the last recorded purchase price.

5. The owner shall not sell the affordable housing unit to anyone other than a purchaser who has been certified utilizing the income verification procedures established by the office to determine qualified low and moderate income-eligible households.

6. An owner wishing to enter a transaction that will terminate controls as specified shall be obligated to provide a Notice of Intent to Sell to the office and COAH. An option to buy the unit at the maximum restricted sales price as calculated by the Index shall be made available to Evesham Township, the office, or a qualified non-profit organization as determined by COAH for a period of ninety (90) days from the date of delivery of the
Notice of Intent to Sell. The option to buy shall be by certified mail and shall be effective on the date of mailing to the owner.

a. If the option to buy is not exercised within ninety (90) days pursuant to Paragraph C above, the owner may elect to sell the unit to a certified income-eligible household at the maximum restricted sales price as calculated by the Index provided the unit continues to be restricted by an Affordable Housing Agreement and a repayment note for a period of up to thirty (30) years.

b. Alternately, the owner may also elect to sell to any purchaser at a fair market price. In this event, the owner shall be obligated to pay Evesham Township ninety-five percent (95%) of the price differential generated at the time of closing and transfer of title of the affordable housing unit after restrictions have ended as specified herein.

c. If the owner does not sell the unit within one (1) year of the date of delivery of the Notice of Intent to Sell, the option to buy shall be restored to Evesham Township and subsequently to the office or a non-profit entity approved by COAH. The owner shall then be required to submit a new Notice of Intent to Sell the affordable unit to the office.

7. The affordable housing unit shall be sold in accordance with all rules regulations and requirements duly promulgated by COAH (N.J.A.C. 5:93), the intent of which is to ensure that the affordable housing unit remains affordable to and occupied by low and moderate income-eligible households.

I. Calculation of the maximum resale price.

1. The maximum resale price shall equal the established base price; plus
2. The allowable percentage of increase determined by the Index applicable to Evesham Township; plus
3. The value of the approved improvements; plus
4. The cost of sale;
5. Minus cost of repairs.

The calculation of the maximum resale price is as follows:

Established base price plus the allowable percentage of increase determined by the Index + improvements + costs of sales - costs of repairs = maximum resale price.

J. Value of improvements.

1. The value, if any, of any improvement to the premises which is made by an owner during such owner's period of ownership shall be included in the maximum resale price only if such improvements were required to maintain the habitability of the dwelling unit or required by a private mortgagee as a condition of closing and also were approved by the office either at closing of the resale, or prior thereto. Examples of such improvements would include but not be limited to repairs to walls or defective lighting fixtures; examples of excluded improvements would include but not be limited to installation of
fireplaces, replacement of functioning lighting fixtures with improved ones. However, the entire cost of any municipal special assessment shall be included in the maximum resale price.

K. Inspection--repairs (resales).

1. The municipal housing inspector shall inspect the available affordable resale unit for code violation(s). The housing inspector shall submit in writing to the owner and the office a listing of the violation(s). The estimated cost of the repairs not completed by the owner prior to resale shall be deducted from the resale price.

2. The cost of repairs not undertaken by the owner will be determined by estimator(s) and/or contractor(s) supplied by the office.

L. Cost of resale.

1. The costs of resale of the premises shall include the following:

   a. Realty transfer fee. The full amount of the realty transfer fee on the sale shall be included in the maximum resale price of the sale unit.

   b. Attorney's fees. Reasonable attorney's fees shall be included in the maximum resale price.

   c. Broker's fee. Reasonable licensed real estate broker's fees or commissions shall be included in the maximum resale price only if those on the eligible waiting list are not willing to purchase the unit, or the office is unable to supply a purchaser. Prior to an owner of an affordable unit making an agreement with a broker the written approval of the office is necessary. The office will not approve use of a broker, unless a written application to the office has been made.

   d. Other costs and fees. Other costs and fees not specified above which the owner has specified by special affidavit as being essential to the completion of a resale. This category is limited to costs and fees incurred during the closing transaction for services or fees rendered at the closing and shall not include inspections, repairs, maintenance or other costs which deal with or arise out of the condition of the premises, unless they are approved pursuant to this section.

M. Exemptions.

1. Low income units. The office shall, under the following circumstances, declare the resale or re-rental of a low income priced dwelling unit to be exempt from the restriction of resale or re-rental only to a qualified low income family. If no low income qualified purchaser or renter of a low income unit has signed a contract to purchase or to rent a particular low income until within sixty (60) days after the date upon which the owner of the low income unit notifies the office that the low income unit is on the market available for resale or re-rental, the office shall, if thereafter requested in writing by the owner, declare the resale or re-rental of the low income unit to a low income family exempt and shall permit the resale or re-rental to a moderate income family provided, however, any subsequent resale or re-rental of this low income unit under this section shall remain subject to the low income maximum resale price or re-rental and other restrictions set forth in this section as well as the obligation of the unit owner to obtain prior approval of the resale or re-rental from the office.

2. Moderate income units. The office shall, under certain circumstances, declare the resale or re-rental of a moderate income unit to be exempt from the restriction of resale, or re-
rental to a moderate income family. If no moderate income family has signed a contract to purchase or rent a moderate income until within sixty (60) days of the date upon which the owner of the moderate income unit notifies the office that the moderate income unit is on the market available for resale or re-rental, the office shall, if thereafter requested in writing by the owner, declare the resale or re-rental of a moderate income unit exempt from the restrictions of resale or re-rental of the moderate income unit to a moderate income family and permit the resale or re-rental to a non-moderate income family provided, however, any subsequent resale or re-rental of this moderate income unit under this section shall remain subject to all maximum resale price or rental and other restrictions set forth in these regulations as well as the obligation of the unit owner to obtain prior approval of the resale or re-rental from the office.

3. Approvals. The office shall not approve any exemption, unless written application has been made to the office. To obtain approval for any exemption from low or moderate income restrictions the applicant must describe in the application the efforts made to re-sell or re-rent the unit. The office may deny the exemption if it is not reasonably satisfied that sufficient good faith efforts have been made to effectuate the resale or re-rental of the unit.

N. Exempt transactions.

The following transactions shall be deemed "nonsales" for purposes of these regulations and the owner receiving title by virtue of any of the following transactions shall be entitled to receive from the office and the office shall issue a statement of exemption to the owner receiving title by virtue of any of the following transactions:

1. Transfer of ownership of an affordable sales unit between husband and wife;

2. Transfer of ownership of an affordable sales unit between former spouses ordered as a result of a judicial decree of divorce (and not including sales to third parties);

3. Transfer of ownership of an affordable unit between family members as a result of inheritance;

4. Transfer of ownership of an affordable unit through an executor's deed to any person;

5. Transfer pursuant to foreclosure proceeding or a proceeding in lieu of foreclosure:
   a. A judgment of foreclosure by a First Money Mortgagor on an affordable housing unit shall not take place until all remedies set forth in the Affordable Housing Agreement have been exhausted. A judgment of Foreclosure on any restricted sales unit will result in a termination of resale controls except for the defaulting mortgagor who shall be forever subject to the restriction with respect to the unit owned by him at the time of default.
   b. In lieu of the default on resale restrictions, the Township may exercise an option to purchase the unit at an approved price and holding, renting or conveying it to a certified household if such right is exercised prior to a Judgment of Foreclosure.
   c. In the event of a Foreclosure sale by the First Purchase Money mortgagee, any surplus funds exceeding the maximum allowable resale price as calculated using the approved Index, the amount required to pay and satisfy the First Purchase Money Mortgage, including the costs of foreclosure and any second mortgages approved by the New Jersey Department of Community Affairs shall be paid to the Department or office as reimbursement for any funding invested in the unit.
Any remaining funds in excess of outstanding grants or loans will be returned to the Township.

d. A Judgment of Foreclosure will result in the loss of the unit from the Township's affordable housing inventory.

e. Affordable housing units that have been designated as rental units shall be subject to the terms, restrictions and provisions of the Affordable Housing Agreement regardless of a judgment of foreclosure and shall not be lost to the affordable housing inventory.

O. Violations of these regulations.

1. The interest of any owner of a sales unit or renter of a rental unit may, at the option of the office, be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of these regulations which remain uncured for a period of sixty (60) days after service of a written notice of violation upon the sales unit owner or renter by the office. The notice of violation shall specify the particular infraction and shall advise the sales unit owner or renter that his or her interest may be subject to forfeiture if such infraction is not cured within sixty (60) days of receipt of the notice. The provisions of this section may be enforced by the office by court action seeking a judgment which would result in the termination of the owner's equity and other interests in the unit. Renters will be subject to eviction.

These remedies are in addition to any other provided by law, or in a mortgage, condominium deed, lease, or other applicable document.

In addition to the above, persons or parties violating this section are subject to the penalties provided for in Section 161 - 7 Q.

P. Housing marketing plan.

The developer, for the initial sales or rentals, and the office for resales or re-rentals, will develop and implement a housing marketing plan for dwelling units covered by this section and the COAH rules and regulations. At a minimum the availability of housing low/moderate income families shall be made known to a variety of public and private groups and shall be advertised in appropriate ways throughout the municipality's housing region. All advertisements shall conform with applicable state and Federal fair housing laws. The developer will submit the marketing plan to the office at least forty-five (45) days prior to the advertising of the availability of the units. The office will approve or modify the plan within thirty (30) working days of receipt of the plan.

Q. Unit distribution.

With the exception of senior citizen (age fifty-five (55) or over for at least one [1] inhabitant) developments, the following is the bedroom distribution for the affordable units in a new construction inclusionary development.

(a) At a minimum, fifteen percent (15%) of all low and moderate income units shall be one (1) bedroom; and

(b) At a minimum, thirty-five percent (35%) of all low and moderate income units shall be two (2) bedroom units; and

(c) At a minimum, fifteen percent (15%) of all low and moderate income units shall be three (3) bedroom units; and
(d) No more than ten percent (10%) of all low and moderate income units may be efficiency units.

R. Scope.

This section shall apply to all developments which are required by the Land Use Legislative Ordinances to provide low and moderate income housing.

S. Penalties.

1. Any person or party found violating this section shall be punished by a fine not exceeding One Thousand Dollars ($1,000), or by imprisonment for a period not exceeding ninety days (90), or by both such fine and imprisonment.

2. Persons or parties found guilty of violating Section 161 - 7.D. herein are subject to the following penalties:
   a. A fine in the amount of $1,000.
   b. In addition to the fine above, the Court may, in its discretion, impose additional fines equalling double the amount of rent received by a person or party.
   c. Imprisonment for a period not exceeding ninety days (90), or by both such fines as listed above and imprisonment or a period of community service not exceeding ninety days (90).
### TABLE 1
#### LOW INCOME SALES

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<tr>
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<th>TWO BEDROOM</th>
<th>THREE BEDROOM</th>
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<td>3</td>
<td>5</td>
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<td><strong>Interest Rate</strong></td>
<td>Maximum Sales Price</td>
<td>Maximum Sales Price</td>
<td>Maximum Sales Price</td>
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#### MODERATE INCOME SALES

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<tr>
<td><strong>Interest Rate</strong></td>
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<td>Maximum Sales Price</td>
<td>Maximum Sales Price</td>
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### TABLE 3
#### LOW INCOME RENTALS

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<td>2</td>
<td>3</td>
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MODERATE INCOME RENTALS

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<th>EFFICIENCY</th>
<th>ONE BEDROOM</th>
<th>TWO BEDROOM</th>
<th>THREE BEDROOM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>5</td>
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</tbody>
</table>

PRELIMINARY RENT (EXCLUDING UTILITIES) $474 $542 $610 $720

AVERAGE RENT (EXCLUDING UTILITIES) $427 $487 $549 $648

The foregoing tables shall be updated by the office to reflect the changes in the median income as published by HUD, mortgage interest rates and other costs, and shall be used by the office and developer as a guide for determining maximum affordable sales prices and rental charges. Actual prices of units shall be based on the COAH price stratification rules and regulations.

§161-3. Mandatory Development Fees

A. Purpose - The purpose of the mandatory development fee is to provide funding for the Township's Housing Element and Fair Share Plan approved by the Township Council, Township of Evesham.

B. Definitions - The following words used in this Chapter subsection are intended to have the same meaning as given to them by the New Jersey Supreme Court in the Mount Laurel II decision and as clarified or otherwise modified by subsequent decisions, if any, by a Court of competent jurisdiction, and by the New Jersey Council on Affordable Housing in N.J.A.C. 5:92-1.3, including but not limited to:

1. "Affordable" means a sales price or rent within the means of a low or moderate income household as defined in N.J.S.A. 5:9-12.

2. "COAH" means the New Jersey Council on Affordable Housing established under the Fair Housing Act and which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in the State.

3. "Equalized Assessed Valuation" means the value of property determined by the Evesham Township Tax Assessor through a process designed to ensure that all property in the Township is assessed at the same assessment ratio or ratios as required by law. Estimates at the time of issuance of building permits may be obtained by the Tax Assessor utilizing estimates for construction costs. Actual equalized assessed value will be determined at project completion by the Evesham Township Tax Assessor.

4. "Floor Area Ratio (F.A.R.)" means the sum of all floors of buildings or structures compared to the total area of the site.

5. "Inclusionary Development" means a residential development in which a substantial percentage of the housing units is provided for a reasonable range of low and moderate income households.

6. "Judgment of Repose" means a judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.

7. "Mandatory Development Fee" means a fee paid pursuant to a Mandatory Fee Ordinance.
8. "Mandatory Fee Ordinance" means an ordinance which prohibits development pursuant to an existing permitted use in the zoning ordinance without compelling the affected developer to contribute monies to the municipality’s affordable housing trust fund.

9. "Substantial Change" means any change in an approval such that the developer is required to re-appear before the Planning or Zoning Board of the Township or otherwise seek an amendment to their approval.

10. All other terms contained herein shall be as set forth in the Municipal Land Use Act, N.J.S.A. 40:55D-1, et. seq. and Chapters 160 and 161 of the Land Use Legislation of the Township of Evesham.

C. Residential Development Fees: Amount - All developers of residential major and minor subdivisions and single residential lots shall pay a mandatory development fee equal to one-half of one percent (0.50%) of the equalized assessed valuation for each residential unit constructed. This mandatory fee shall be calculated as follows: 0.50% x equalized assessed valuation x number of units.

D. Non-Residential Development Fees: Amount - All non-residential developers shall pay a mandatory development fee equal to one percent (1.0%) of the total equalized assessed valuation of the non-residential development, provided however, no development fee shall be required where the total equalized assessed value of the development is less than $15,000 as established by the Tax Assessor. This mandatory fee shall be calculated as follows: 1.0% x total equalized assessed valuation. Non-residential developers shall also pay an additional mandatory development fee equal to One Dollar ($1.00) for every square foot of floor area which exceeds the Base Floor Area Ratio established for various zoning districts in Chapter 160 of this Code.

E. Eligible Exactions, Ineligible Exactions and Exemptions.

1. All residential development within any “Inclusionary Development” shall be exempt from paying development fees.

2. Developments that have received preliminary and final approval, prior to the original effective date of this Section, are exempt from development fees during the effective period of said approval, unless the developer seeks a substantial change in the approvals granted.

3. Development fees shall not be collected for the expansion of an existing residential dwelling unit and/or for the construction of an accessory structure relative to an existing residential dwelling.

4. Regarding minor subdivisions approved prior to the effective date of this ordinance, any residential dwelling unit to be constructed on a lot created by the approved minor subdivision shall be exempt from paying development fees if the construction permit for the dwelling unit is issued within two (2) years of the date on which the resolution of minor subdivision approval was adopted, or within such further time if an extension has been granted pursuant to the Municipal Land Use Law and/or the Permit Extension Act.

5. Regarding minor site plans approved prior to the effective date of this ordinance, any principal nonresidential building to be constructed as part of the approved minor site plan shall be exempt from paying development fees if the Construction Permit for the building is issued within two (2) years of the date on which the resolution for minor site plan approval was adopted, or within such further time if an extension has been granted pursuant to the Municipal Land Use Law and/or the Permit Extension Act.
6. Regarding preliminary major subdivisions and/or preliminary major site plans approved prior to the effective date of this ordinance, any residential dwelling unit to be constructed as part of the approved development shall be exempt from paying development fees if the following two (2) conditions have been met:
   
a. The subject development received final major subdivision and/or final major site plan approval prior to the expiration of the vesting period of three (3) years from the date on which the resolution of preliminary approval was adopted, or within such further time if an extension has been granted pursuant to the Municipal Land Use Law and/or the Permit Extension Act; and
   
b. The Construction Permit is issued within two (2) years of the date on which the resolution of final major subdivision and/or final major site plan approval was adopted, or within such further time if an extension has been granted pursuant to the Municipal Land Use Law and/or the Permit Extension Act.

7. Regarding final major subdivisions and/or final major site plans approved prior to the effective date of this ordinance, any residential dwelling unit to be constructed as part of the approved development shall be exempt from paying development fees if the Construction Permit is issued within two (2) years of the date on which the resolution of final subdivision and/or final site plan approval was adopted, or within such further time if an extension has been granted pursuant to the Municipal Land Use Law and/or the Permit Extension Act.

F. Time of Payments.

1. Fifty percent (50%) of the total mandatory development fee owed to Evesham Township, whether for residential or non-residential development, shall be paid prior to the issuance of any building permit required in connection with the development, and shall be calculated as follows:
   
a. For residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the Evesham Township Tax Assessor.
   
b. For non-residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the non-residential development as determined by the Evesham Township Tax Assessor.
   
c. The Division of Inspections of the Department of Community Development shall calculate the initial fee and notify the applicant of the amount. The Division of Inspections shall, upon receipt of the final equalized assessment figures, notify the applicant of the balance due. The Division of Planning and Zoning of the Department of Community Development shall, on behalf of the Director of the Department of Community Development, collect, post and deposit all funds collected pursuant to this section via the Department of Finance with an explanation regarding the purpose of said deposit.

2. The remaining portion of the development fee shall be paid prior to the issuance of any Certificate of Occupancy for any development or any part thereof, whether residential or non-residential, and shall be calculated using the actual assessed valuation of the development as determined by the Evesham Township Tax Assessor.
3. Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation:
   a. If the estimated assessed valuation used to calculate the initial fifty percent (50%) payment was over-estimated or under-estimated, causing the actual assessed valuation to be less than or greater than the estimated assessed valuation used to calculate the initial fifty percent (50%) payment, the developer's Certificate of Occupancy payment shall be equal to the difference between the actual assessed valuation and the initial fifty percent (50%) payment as determined by the Evesham Township Tax Assessor.

G. Housing Trust Fund.
   1. All mandatory development fees collected pursuant to this Ordinance shall be deposited in an interest bearing escrow account entitled the "Affordable Housing Trust Fund" Mandatory Fee Account.
   2. If the Court determines that the Evesham Township's spending is not in conformance with COAH's rules on development fees, the Court is authorized to direct the manner in which all development fees collected pursuant to this Ordinance shall be expended.

H. Use of Funds.
   1. Money deposited in the Housing Trust Fund may be used for any activity approved for addressing the Township's low and moderate income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low and moderate income housing; extensions and/or improvements of road and infrastructures to low and moderate income housing sites; assistance designed to render units to be more affordable to low and moderate income people; and administrative costs necessary to implement the Township's housing element. The expenditure of all money shall conform to the approved spending plan.
   2. Unless specifically waived, not less than thirty percent (30%) of the revenues collected from development fees collected pursuant to this Ordinance shall be devoted to rendering existing units more affordable to low and moderate income households by funding such activities as down payment assistance, low interest loans and rental assistance.
   3. No more than twenty percent (20%) of the revenues collected from development fees collected pursuant to this Ordinance shall be devoted to administrative expenses incurred by the Township in addressing its Fair Share obligation.