# AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

## Town of Hackettstown

Warren County, New Jersey

Adopted by Town Council: November 12, 2020

Prepared by:

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## INTRODUCTION

The Town of Hackettstown, Warren County has prepared a new Housing Element and Fair Share Plan 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 March 10, 2015 Supreme Court Order (Mount Laurel IV).

Hackettstown received its first substantive certification from the Council on Affordable Housing ("COAH") on August 4, 1993 with an employment adjustment. On May 3, 2000, Hackettstown received substantive certification for its Housing Element & Fair Share Plan ("HEFSP"), which addressed the Town's 1987-1999 cumulative pre-credited need. Hackettstown adopted a HEFSP in April 2006 to address its Third-Round obligation under N.J.A.C. 5:94, though never received substantive certification because COAH's Third Round Rules (N.J.A.C. 5:94) were overturned.

Hackettstown petitioned COAH for Third Round substantive certification again on June 3, 2010. COAH deemed the petition complete on August 31, 2010 but did not complete the substantive review due to litigation of N.J.A.C. 5:97. The Hackettstown Planning Board adopted an HEFSP on July 25, 2017 and amended an HEFSP on December 17, 2019 to effectuate the terms of the January 12, 2017 Settlement Agreement, and the Town is in process of seeking a Judgement of Repose and Compliance from the Court for its HEFSP.

## REVENUES FOR CERTIFICATION PERIOD

As of April 27, 2020, the Town of Hackettstown collected $276,888.23 in the Affordable Housing Trust Fund and expended $271,850.00, resulting in a balance of $5,038.23. 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 Fulton Bank of NJ 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.

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Town of Hackettstown considered the following:

(a) Development fees:

1. Future development that is likely to occur based on historical rates of development, which results in an estimated $4,140 in residential development and an estimated $5,000 in non-residential development fees every two years.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers. The Town received $275,000 payment-in-lieu from Hunters Brook in 2007. No other payments-in-lieu are anticipated at this time.

(c) Other funding sources:

Other funding sources have not been collected or assessed, and none are anticipated.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate of 0.05%.

The Town of Hackettstown projects approximately $27,457.70 in revenue to be collected between January 2021 and July 2025. This anticipated amount, when added to Hackettstown's current trust fund balance, results in anticipated total revenue of $32,495.93 available to fund and administer its affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

| **Projected Revenues – Affordable Housing Trust Fund** | | | | | | |
|---|---|---|---|---|---|---|
| Source of Funds | 2021 | 2022 | 2023 | 2024 | 2025 | Total |
| **(a) Development fees:** | | | | | | |
| Projected Residential Development | $4,140 | | $4,140 | | $4,140 | $12,420 |
| Projected Non-Residential Development | $5,000 | | $5,000 | | $5,000 | $15,000 |
| (b) Payments in Lieu of Construction | | | | | | $0 |
| (c) Other Funds | | | | | | $0 |
| (d) Interest | $7.54 | $7.54 | $7.54 | $7.54 | $7.54 | $37.70 |
| **Total** | **$9,147.54** | **$7.54** | **$9,147.54** | **$7.54** | **$9,147.54** | **$27,457.70** |

## 3) 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 Town of Hackettstown:

(a) Collection of development fee revenues: Collection of development fee revenues shall be consistent with the Town of Hackettstown's development fee ordinance 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: The distribution of the collected development fees will be in accordance with Hackettstown's Development Fees ordinance provisions.

## 4) DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

### Rehabilitation and new construction programs and projects

Rehabilitation program: Hackettstown intends to continue to encourage residents to utilize the existing WCHRP to rehabilitate homes. Hackettstown transferred $210,000 from its affordable housing trust fund to WCHRP in 2012 to be designated for rehabilitation of homes in Hackettstown. At an average cost of $10,000 per home, this is assumed to be sufficient funds for 21 homes to be rehabilitated. It is assumed that additional funds will be available from the WCHRP to rehabilitate an additional 23 units in Hackettstown, for a total of 45 anticipated units through WCHRP.

### Affordability Assistance Program (N.J.A.C. 5:93-8.16)

Municipalities are required to spend a minimum of 30% of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30% of the regional median income). Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, common maintenance expenses for units located in condominiums, and rental assistance. The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.

As shown below, Hackettstown has collected $304,345.93 in development fees, interest and other deposits. Hackettstown has expended $257,500.00 on housing activities through July 11, 2012, which are excluded from the calculation pursuant to N.J.A.C

5:93-8.16(c). Accordingly, Hackettstown has an affordability assistance obligation of $14,053.78. Hackettstown has expended $0.00 on affordability assistance for rental assistance to date.

| Affordability Assistance Calculation | | |
|---|---|---|
| Actual development fees through 4/27/2020 | | $0.00 |
| Other deposits thru 4/27/2020 (Payment-in-Lieu) | + | $275,000.00 |
| Actual interest earned through 4/27/2020 | + | $1,888.23 |
| Development fees projected 2021-2025 | + | $27,420.00 |
| Interest projected 2021-2025 | + | $37.70 |
| Less housing activity expenditures through 7/11/2012 | - | $257,500.00 |
| **Total** | = | **$46,845.93** |
| Calculate 30 percent | x .30 = | $14,053.78 |
| Less Affordability assistance expenditures through 4/27/2020 | - | $0.00 |
| **Projected Minimum Affordability Assistance Requirement 2021 through 2025** | = | **$14,053.78** |
| Projected Minimum Very Low-Income Affordability Assistance Requirement 2021 through 2025 | ÷ 3 = | $4,684.59 |

### *FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM*

Down Payment Loan Program

The Town of Hackettstown may offer a Down Payment Assistance Loan program to qualified purchasers of households earning 80% or less of median income of the housing region. To be eligible for the loan, the qualified Buyer must be able to supply 3% of the down payment with the Buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the 3% down payment amount, but may be used to fund additional closing costs. The loan amount may be made up to ten percent (10%) of the purchase price.

The Town must approve the Buyer 's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the Buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The Buyer must sign a mortgage and mortgage note to the Town.

Payment of Closing Costs

Eligible Buyers may receive payment of closing costs, i.e., title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowners insurance. recording fees and other necessary closing expenses to third parties, not to exceed one thousand five hundred dollars ($1.500.) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars ($3,000) per unit. Utility deposits, i.e., gas and electric, paid to utility companies are to be returned to the Town Affordable Housing Trust Fund upon resale of the unit. The buyer will execute documents required to secure payment to The Town of Hackettstown.

Payment of Lender Fees

Eligible Buyers may receive payment of lender fees, i.e., mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses, not to exceed one thousand five hundred dollars ($1,500) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars ($3,000) per unit.

Administration

Hackettstown's Affordability Assistance Program is managed by the Town of Hackettstown Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Town's website. The following administrative process is applied to the For-Sale Unit Affordability Assistance Program:

1. The Buyer contacts the Administrative Agent to confirm that he/she wants to receive Down Payment Assistance.
2. The Buyer must present proof to the Administrative Agent that he/she is qualified for Affordable Housing in the Town of Hackettstown.

3. The Buyer must produce an exact copy of a signed Real Estate Contract for an affordable housing unit in The Town of Hackettstown, which indicates clearly the full amount of the purchase price. The Buyer must provide the Administrative Agent with the full name, address, phone number, and fax number of the Buyer's Attorney or Settlement Agent so that the Attorney or Settlement Agent can review and approve any and all documents required for the loan.

4. The Administrative Agent contacts the Realtor or Developer for confirmation of the sale of the unit, and the name of the Attorney handling the sale for the Developer at closing.

5. The amount of the Down Payment Assistance loan is verified (not to exceed ten percent of the Purchase Price) so that a Mortgage Note. Mortgage, and Repayment Agreement can be prepared by the Administrative Agent.

6. The amount of the Down Payment Assistance must be disclosed to the Lender, so that the Lender can accurately prepare the First Mortgage documents. The Buyer must give a copy of the First Mortgage Commitment to the Administrative Agent upon receipt of same, so that the Lender can receive full information about the Down Payment Assistance Loan, which shall constitute a Second Mortgage on the premises. The Lender must approve the secondary financing. The The Town of Hackettstown Affordable Housing Attorney will contact the Lender once the Affordable Housing Attorney has a copy of the First Mortgage Commitment.

7. The Town of Hackettstown Finance Department will generate the necessary forms and obtain the Town of Hackettstown Committee approval for it to issue an Affordable Housing Trust Fund check payable to the Seller's Attorney or Settlement Agent, so that the Down Payment Assistance check can be deposited into the Seller's Attorney Trust Account or Settlement Agent Trust Account pending Closing of Title. The letter and check to the Seller's Attorney or Settlement Agent shall state that the deposit money must be returned to the Town of Hackettstown if the closing is canceled, or if the sale is declared null and void. If there is a Closing of Title, the Down Payment Assistance money shall be released to the Seller. This money shall be shown on the Closing Statement as a deposit, with credit given at closing to the Buyer. The Buyer must fully execute the Mortgage Note, Mortgage, and Repayment Agreement at the Closing of Title before any money is released.

8. The Seller's Attorney or Settlement Agent shall verify that the Mortgage Note, Mortgage, and Repayment Agreement have been properly executed, and shall file the original Mortgage with the County Clerk to protect the The Town of Hackettstown Second Mortgage on the property and return the Filed Mortgage to Affordable Housing Attorney along with the original Mortgage Note and Repayment Agreement.

***RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM***

<u>Rental Assistance</u>

The Town of Hackettstown may offer a Rental Assistance Program that is managed by the Town of Hackettstown Affordable Housing Administrative Agent. Eligible recipients of the program are renters who qualify for a very-low, low- or moderate-income rental unit. The following assistance is available to very-low, low- and moderate-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed five hundred dollars ($500) per family.
2. Rent subsidies based upon size of household and number of bedrooms in apartment
   a) One-bedroom, low-income unit -$55 per month subsidy.
   b) One-bedroom, moderate-income unit -$100 per month subsidy.
   c) Two-bedroom, low-income unit -$100 per month subsidy.
   d) Two-bedroom, moderate-income unit -$200 per month subsidy.
   e) Three-bedroom, low-income unit --$150 per month subsidy.
   f) Three-bedroom, moderate-income units --$250 per month subsidy

The following assistance is available to very low-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars ($1,500) per household.

2. Rental security deposit -Deposits paid to landlord to be returned to the Town's Affordable Housing Trust Fund upon termination of tenancy.

3. Rent subsidies based upon size of household and number of bedrooms in apartment:

    a) One-bedroom -$75 per month subsidy

    b) Two-bedroom -$125 per month subsidy

    c) Three-bedroom --$175 per month subsidy

Rental assistance does not need to be repaid by the tenant. The amount of the rental supplement will be calculated initially based on the tenant's actual income and the rent level of the affordable units to help bring the total shelter costs down to 30% of the total household income or lower, if warranted by the particular household circumstances. If the tenant wishes to renew the lease, he/she must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, he/she may renew the lease and stay in the unit, but will no longer receive rental assistance.

<u>Administration</u>

The Town of Hackettstown's Rental Unit Affordability Assistance Program will be administered by the Town of Hackettstown Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Town's website. After an applicant is income qualified by the Administrative Agent pursuant to the Uniform Housing Affordability Controls, the applicant will complete and provide an affordability assistance application to the Administrative Agent.

For qualified and approved payment of moving expense, the Administrative Agent will follow the Town purchasing and requisition process for generating a check that is made out to the applicant. Once the check is produced, the Administrative Agent provides it to the applicant.

For qualified and approved payment of utility deposit, the Administrative Agent follows the Town purchasing and requisition process for generating a check that is made out to the utility company. Once the check is produced, the Administrative Agent provides it to the applicant for payment to the utility company.

The affordability assistance recipient will sign a contract with the Town of Hackettstown which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within The Town of Hackettstown and provided to all administrative agents of affordable units within The Town of Hackettstown and advertised on the Town's website.

An income eligible occupant or applicant for an affordable unit within Town may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

## Administrative Expenses (N.J.A.C. 5:93-8.16)

Municipalities are permitted to use affordable housing trust fund revenue for related administrative costs up to a 20% limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

The Town of Hackettstown projects that a maximum of $46,519.19 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20% cap, are as follows:

- Town Attorney, Engineer and Planner fees related to obtaining substantive certification as well as consulting fees related to the administration and implementation of the Town's affordable housing program(s).
- Salaries and benefits for municipal employees for administration and implementation of the housing plan and program(s).

| Administrative Expense Calculation | | |
|---|---|---|
| Actual dev fees and interest thru 12/31/2020 | | $1,888.23 |
| Projected dev fees and interest 2021 thru 2025 | + | $27,457.70 |
| Other deposits thru 4/27/2020 | + | $275,000.00 |
| Less RCA expenditures thru 4/27/2020 | - | $0.00 |
| **Total** | = | **$304,345.93** |
| Calculate 20 percent | x .20 = | $60,869.19 |
| Less admin expenditures thru 4/27/2020 | - | $14,350.00 |
| **Projected Maximum available for administrative expenses thru 7/31/2025** | = | **$46,519.19** |

## EXPENDITURE SCHEDULE

The Town of Hackettstown has previously expended funds from the Trust Fund for the following housing activities:

| Date | Project | Amount |
|---|---|---|
| 12/22/2011 | 431 Hurley Drive, Rehabilitation of units for disabled persons | $47,500.00 |
| 07/11/2012 | Transferred funds to Warren County Rehab Program | $210,000.00 |
| **Total** | | **$257,500.00** |

The Town of Hackettstown intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units.

| Projected Expenditure Schedule 2021 -2025 | | | | | | |
|---|---|---|---|---|---|---|
| **Programs** | **2021** | **2022** | **2023** | **2024** | **2025** | **Total** |
| Affordability Assistance | $3,000.00 | $3,000.00 | $3,000.00 | $3,000.00 | $2,053.78 | $14,053.78 |
| Administration | $3,500.00 | $3,500.00 | $3,500.00 | $3,500.00 | $3,500.00 | $17,500.00 |
| **Total Expenditures** | **$6,500.00** | **$6,500.00** | **$6,500.00** | **$6,500.00** | **$5,553.78** | **$31,553.78** |

## EXCESS OR SHORTFALL OF FUNDS

The Town intends to provide funding for the above-referenced programs through the Town's affordable housing trust fund. In the event of any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan, the Town of Hackettstown will adopt a resolution of intent to bond, as required by the Settlement Agreement with the Fair Share Housing Center, COAH regulations, and orders of the Court entered in the Town’s Declaratory Judgment Action related to affordable housing.

In the event more funds than anticipated are collected or projected funds exceed the amount necessary to implement the Fair Share Plan, the Town of Hackettstown will dedicate additional funds to WCHRP.

## BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Town of Hackettstown’s Affordable Housing Ordinance in accordance with the prevailing State regulations.

# SUMMARY

The Town of Hackettstown intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93 consistent with the housing programs outlined in the Housing Plan Element. The Town of Hackettstown has a balance of $5,038.23 as of April 27, 2020 and anticipates an additional $27,457.70 in revenues through 2025. Hackettstown will spend at least 14,053.78 for affordability assistance and approximately $17,500 to assist with administration expenses. Any shortfall of funds will be offset by a resolution of intent to bond. The municipality will dedicate any excess funds or remaining balance toward affordability assistance or the WCHRP.

| SPENDING PLAN SUMMARY | | |
|---|---|---|
| Balance as of April 27, 2020 | | $5,038.23 |
| Projected Revenue 2021-2025 | | |
| Development fees | + | $27,420.00 |
| Interest | + | $37.70 |
| **TOTAL REVENUE** | = | **$32,495.93** |
| **Projected Expenditures 2021-2025** | | |
| Affordability Assistance | - | $14,995.93 |
| Administration | - | $17,500.00 |
| Total Projected Expenditures | = | $31,553.78 |
| **Remaining Balance** | = | **$0** |