BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY

WASHINGTON BOROUGH COUNCIL MINUTES

DATE: February 17, 2026

The regular meeting of the Borough Council of Washington, Warren County, New Jersey was held in councils chambers at 6:00 P.M.

Roll Call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox..

Also Present: Erik Peterson Attorney
Borough Manager, Brian Bond
Laurie A. Courter, Borough Clerk

Mayor Cox led everyone in the flag salute and a moment of silence.

Mayor Cox read the following statement into record:

STATEMENT OF ADEQUATE NOTICE

The requirements of the Open Public Meetings Law, P.L. 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Express-Times and Star Ledger and posted on the Boroughs website stating the time, place and purpose of the meeting as required by law.

APPROVAL OF PREVIOUS MINUTES

Motion made by Musick and seconded by Infinito to approve the following minutes:
February 3, 2026

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

PUBLIC COMMENT-Agenda items

Motion made by Musick and seconded by Infinito to open public comment, all were in favor.

Hearing no public comment, motion made by Musick and seconded by Gorshkov to close the public portion, all were in favor.

REPORTS

Budget

France reported that they're working on the 2026 budget. The committee will be meeting on Thursday.

LUB

Matteo reported that Joe Markos(sp) who owns the building behind Dunkin Donuts will present his plan on March 9th, he is looking to put in 12 apartments. Matteo also reported in regards to the fourth round, the borough is in compliance with the Fair Housing plan. Deadline is March 15th.

Green Team

Matteo reported that the Farmers Market dates are being discussed. Stream clean up will be on April 4th. Stated that the BID was granted use of EBT cards to be used for purchases at the Farmer Market.

VOUCHERS-Approval of Claims

Motion made by Musick and seconded by Infinito to approve the claims and vouchers.

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

NEW BUSINESS

Discussion: Fees for EV Chargers

Manager Bond discussed the EB chargers that have been free since being isntalled. The borough has been paying the electricity per month around $600-$700 per month.
Discussion ensued regarding what other towns charge or pay. The average time connected is over five hours. Bond explained that the issue of cars after being charged for two hours aren't charging anymore but are still connected to chargers. Bond recommends $2 per hour and $5 per hour if not charging. Discussions ensued regarding instances of charging and abusing the stations. Brown stated that the original intent was to bring in shoppers downtown to come charge and shop. Infinito inquired about the fee and asked if the charge will start at beginning or after being charged. Bond replied it would be after the $5 charge, after the hour..

ORDINANCE 1st Reading

Public Hearing and Adoption: March 17, 2026

Motion made by Musick and seconded by Gorshkov to approve on first reading Ordinance 2026-03
Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

BOROUGH OF WASHINGTON
COUNTY OF WARREN
STATE OF NEW JERSEY

ORDINANCE NO. 2026-03

ORDINANCE CREATING NEW CHAPTER 33: "CONSTRUCTION DUST CONTROL" TO REQUIRE CONTAINMENT OF CONSTRUCTION DUST AND MICROPLASTICS

BE IT ORDAINED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, that the Borough's Revised General Ordinances are hereby supplemented with *new* Chapter 33: "Construction Dust Control" as follows:

CHAPTER 33: "CONSTRUCTION DUST CONTROL"

§ 33-1 Dust, Trash, and Plastic Contaminants Control.

In addition to other regulations, whether contained in the Borough Code or otherwise, any party undertaking construction activities within the Borough shall adhere to the following guidelines to control dust, trash, and plastic contaminants at their worksites:

A. When cutting or drilling AZEK, TREX, any fiberglass, plastic, poly-compound materials, plastics or wood, use a vacuum attachment on all saws when practical to minimize the release of dust and microplastic particles;

B. Cut and drill in confined spaces to keep dust levels to a minimum and facilitate ease of cleanup;

C. Do not engage in cutting or drilling activities without placing a tarp under power tools to catch debris and contaminants;

D. Tarp work areas and clean the area a minimum of once a day to prevent the dispersion of dust and plastic contaminants; and

E. Clean up all wood and plastic contaminants before leaving their worksites, ensuring that no waste is left behind nor can be blown into neighboring properties or the street.

§ 33-2 Prohibition on Storm Drain Disposal.

A. Blowing debris, dust, or plastic contaminants into streets and/or storm drains is strictly prohibited. Waste materials must be disposed of properly in accordance with existing municipal waste disposal regulations.

B. Waste and recyclable materials, such as cardboard and must be separated and disposed of in accordance with Borough ordinances.

C. Where any site drains to a public stormwater inlet after stormwater leaves the property, prior to cutting, drilling, or engaging in any other activity regulated by this Chapter the party shall install a filter at that stormwater inlet made of polypropylene geotextile which conforms to ASTM Test D4491, D4751, and D4355.

§ 33-3 Compliance; Enforcement.

A Any person who violates, fails, or refuses to comply with this Chapter or any part thereof shall, upon conviction in the Municipal Court be punished for each offense by a fine not to exceed $1,000. Every such violation or refusal shall be deemed a separate violation, and each day that the same shall continue shall be deemed a separate violation.

B. Contractors are responsible for informing their employees and subcontractors of the requirements and obligations set forth in this Chapter.

BE IT **FURTHER ORDAINED** by the Mayor and Council of the Borough of Washington that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Washington that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Washington that this Ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Motion made by Musick and seconded by Gorshkov to approve on first reading Ordinances 2026-04.
Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.

Ayes:7 Nays: 0

Motion passes.

BOROUGH OF WASHINGTON

ORDINANCE 2026-04

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF WASHINGTON IN THE COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF WASHINGTON TO INCLUDE AND DESIGINATE DATA CENTERS AS A NON-PERMITTED USE IN ALL ZONES WITHIN THE BOROUGH OF WASHINGTON

WHEREAS, the Borough of Washington Master Plan emphasizes protection of the Borough/Township/Town's rural character, agricultural lands, scenic landscapes, environmental resources, and historic and cultural heritage; and

WHEREAS, data centers, by nature, present an intense and unique form of use of land use and development, posing significant challenges related to electricity consumption, noise, air quality, water use, community character and long-term planning objectives; and

WHEREAS, preliminary data cited by Members of the New Jersey State Legislature has cautioned that large-scale data centers can use as much as 3 to 5 million gallons of water in a single day between liquid cooling and water consumed to generate the energy that powers them; and

WHEREAS, this extreme volume of water usage impacts homes and businesses both within the municipality and the surrounding communities; and

WHEREAS, preliminary studies noted by the State Legislature also indicate that some data centers require 300 MW of electricity, which is roughly equivalent to the output of a small modular nuclear reactor; and

WHEREAS, aside from increases in taxes and governmental services across the board, in only the last year the majority of the State has already seen consumer energy costs increase more than twenty percent (20%), with additional increases expected within the next few months; and

WHEREAS, the high-tech data centers that are proliferating throughout the state consume a large amount of electrical power at a time when energy costs are increasing for ratepayers; and

WHEREAS, it is well established that overdevelopment, urbanization and overuse of environmental resources impacts subterranean aquifers and the quality of drinking and other water resources and poses a substantial strain on community water resources; and

WHEREAS, the Governing Body is conscious of the hazards, such as depletion of critical groundwater resources, and the impact on the environmental and natural resources posed by the scope, depth and pervasiveness of large-scale commercial data center operations; and

WHEREAS, municipal regulations designed for the preservation of the environment and the protection of ecological values are a well-recognized, legitimate and proper exercise of municipality authority; and

WHEREAS, cutting and removal of trees has been found to cause and create increased soil erosion and dust, instability and deterioration in the value of surrounding property and other adverse environmental and geographical conditions; and

WHEREAS, dramatic increases and changes in population, development and the impact of certain data center operations on residents, businesses, the environment, and private and public property have imposed significant burdens on municipal resources and have created increased need to balance the rights and interests of the residents and general public with that of the legitimate rights of property owners to conduct business without unreasonable regulation; and

WHEREAS, in light of these significant changes in confluence with modern advancement in technology, scientific and environmental research that have allowed for a more accurate and comprehensive understanding of the hazards and dangers posed to surrounding property, environmental and natural resources, the general public, and the proliferation and expansion of governmental regulation of the environment, safety and business in general, that have occurred since the enactment of the municipalities zoning and development regulations, the Mayor and Council have determined it necessary and appropriate to amend and update its ordinances to adequately address data center uses in a manner that best reflects present needs and realities; and

WHEREAS, the Mayor and Council of the Borough of Washington. have determined that it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of its residents and members of the public who visit, travel or conduct business in the Borough, to amend the Borough Code to include all manner of data centers land use and development as a non-permitted use within the geographic boundaries of the Borough and to otherwise improve and strengthen the nature, scope, manner and effectiveness of such regulations;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Washington., in the County of Warren, State of New Jersey as follows:

Section 1. Chapter 94, Zoning, Article III, Definitions and Word Usage, § 94-5, "Definitions" of the Code of Ordinances of the Borough of Washington is hereby amended and supplemented to add a new section/subsection as follows:

> **DATA CENTER** shall mean and include any facility used primarily for the storage, management, and processing of digital or electronic data, which houses computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, systems for monitoring and

managing infrastructure performance, Internet-related equipment and services, data communications connections, environmental controls, fire protection systems, and security systems and services**.** Typical accessory components of a data center may include transformers, electrical substations, environmental controls, fire suppression, generators, redundant power supplies and security facilities.

Section 2. Chapter 94, Zoning, Article VII, Zone District Requirements, § 94-73, Prohibited Uses of the Code of Ordinances of the Borough of Washington. is hereby amended and supplemented to add, "Data Center" as a Prohibited Use:

D. All Data Centers as defined in Chapter 94, Zoning, Article III, Definitions and Word Usage, § 94-5, Definitions of the Code of Ordinances of the Borough of Washington and any and all uses related to the same.

Section 3. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

Section 4. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the [Planning Board/Land Use Board] of the Borough of Washington. for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board/Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate. Upon the adoption of this Ordinance, after public hearing, the Borough Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Warren County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 5. Repealer. All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Severability**.** Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Section 7. Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

Section 8. Prior actions. All actions of the Borough of Washington. taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

Section 9. Codification. This Ordinance may be renumbered for codification purposes.

Motion made by Musick and seconded by Infinito to approve on first reading Ordinance 2026-05.
Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

ORDINANCE 2026-05
AFFORDABLE HOUSING ORDINANCE
BOROUGH OF WASHINGTON, WARREN COUNTY

AN ORDINANCE OF THE BOROUGH OF WASHINGTON, WARREN COUNTY REPEALING ARTICLE VIII, ENTITLED "AFFORDABLE HOUSING," AND ARTICLE IX, ENTITLED "DEVELOPMENT FEES", OF CHAPTER 94, ENTITLED "ZONING AND LAND DEVELOPMENT," OF THE BOROUGH CODE AND ESTABLISHING ARTICLE VIII, ENTITLED "AFFORDABLE HOUSING ORDINANCE"

WHEREAS the Borough of Washington Land Use Board adopted a Fourth Round Housing Element and Fair Share Plan ("HEFSP") on June 16, 2025 pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq), and the Borough Council endorsed the HEFSP on June 17, 2025 via Resolution #2025-108; and

WHEREAS this Ordinance implements and incorporates the adopted and endorsed Fourth Round Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:99, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985 as amended; and

WHEREAS this Ordinance is intended to provide assurances that very-low-, low-, and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low-, and moderate-income households shall occupy those units; and

WHEREAS this Ordinance shall apply except where inconsistent with applicable law.

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Washington, Warren County, New Jersey that Article VIII, entitled "Affordable Housing," and Article IX, entitled "Development Fees," of Chapter 94, entitled "Zoning and Land Development," of the Borough Code are hereby repealed, and Article VIII, entitled "Affordable Housing Ordinance," is hereby created to relplace such articles to include the provisions addressing Washington's constitutional obligation to provide for its fair share of very-low-, low-, and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:99, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Section 1. Article VIII, entitled "Affordable Housing Ordinance," of Chapter 94, entitled "Zoning and Land Development," is hereby created to read as follows:

§94.87 Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in Washington Borough consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act ("FHA") at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing ("COAH") at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan ("HEFSP").
2. This Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Washington Borough Land Use Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
    a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
    b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
    c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

§94-87.1 Definitions

As used herein the following terms shall have the following meanings:

"Accessory apartments" means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed preexisting primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as "accessory dwelling units".

"Act" means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Adaptable" means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform

Construction Code Act," P.L.1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

"Administrative agent" means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

"Affirmative Marketing Plan" means the municipally adopted plan of strategies from which the administrative agent will choose to implement as part of the Affirmative Marketing requirements.

"Affirmative Marketing Process" or "Program" means the actual undertaking of Affirmative Marketing activities in furtherance of each project with very low- low- and moderate-income units.

"Affordability assistance" means the use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

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

"Affordable" means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

"Affordable housing development" means a development included in a municipality's housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

"Affordable Housing Dispute Resolution Program" or "the Program" refers to the dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

"Affordable Housing Monitoring System" or "AHMS" means the Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

"Affordable Housing Trust Fund" or "AHTF" means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the "Neighborhood Preservation Nonlapsing Revolving Fund" and "Balanced Housing" mean the AHTF.

"Affordable unit" means a housing unit proposed or developed pursuant to the Act, including units created with municipal affordable housing trust funds.

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

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L.1983, c. 530 (C.55:14K-1 et seq.).

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

"Barrier-free escrow" means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

“Builder's remedy” means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

"Certified household" means a household that has been certified by an administrative agent as a very-low-income household, a low-income household, or a moderate-income household.

"CHOICE" means the no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

"COAH" or the “Council” means the Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

"Commissioner" means the Commissioner of the Department of Community Affairs.

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

"Construction" means new construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217(N.J.S.A. 52:27D-119 et seq.).

"County-level housing judge" means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal Fair Share plans and housing elements with the Act.

"DCA" and "Department" mean the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

"Department" means the New Jersey Department of Community Affairs.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

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

"Development fee" means money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

"Dispute Resolution Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

"Division" means the Division of Local Planning Services within the Department of Community Affairs.

"Emergent opportunity" means a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

"Equalized assessed value" or "EAV" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b,and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

"Equity share amount" means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

"Exit sale" means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

"Exclusionary zoning litigation" means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

"Extension of expiring controls" means extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

"Fair share obligation" means the total of the present need and prospective need, including prior rounds, as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

"Fair share plan" means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Green Building Strategies” means the strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

"HMFA" or "the Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

"Household income" means a household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

"Housing element" means the portion of a municipality's master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

"Housing region" means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

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

“Judgment of compliance" or "judgment for repose" means a determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

"Low-income household" means a household with a household income equal to 50 percent or less of the regional median income.

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

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

"Mixed use development" means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1)there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities maybe considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

"Moderate-income household" means a household with a household income in excess of 50 percent but less than 80 percent of the regional median income.

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

"MONI" means the no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

"Municipal housing liaison" or "MHL" means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

"Municipal affordable housing trust fund" means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

"Municipal development fee ordinance" means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

"New construction" means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

"New Jersey Affordable Housing Trust Fund" means an account established pursuant to N.J.S.A. 52:27D-320.

"New Jersey Housing Resource Center" or "Housing Resource Center" means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

"95/5 restriction" means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

"Non-exempt sale" means any sale or transfer of ownership of a restricted unit to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

"Nonprofit" means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

"Non-residential development" means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

"Non-residential development fee" means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

"Order for repose" means the protection a municipality has from a builder's remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

"Payment in lieu of constructing affordable units" means the prior approval of the payment of funds to the municipality by a developer when affordable units are were not produced on a site zoned for an inclusionary development. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

“Prospective need” means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

"Qualified Urban Aid Municipality" means a municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

“Person with a disability” means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

"Price differential" means the difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

"Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

“Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c. 2 (C.52:27D-313.2).

"Random selection process" means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

"RCA administrator" means an appointed municipal employee who is responsible for oversight and/or administration of affordable units and associated revenues and expenditures within the municipality that were funded through regional contribution agreements.

"RCA project plan" means a past application, submitted by a receiving municipality in an RCA, delineating the manner in which the receiving municipality intended to create or rehabilitate low- and moderate-income housing.

"Receiving municipality" means, for the purposes of an RCA, a municipality that contractually agreed to assume a portion of another municipality's fair share obligation.

"Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

"Recreational facilities and community centers" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

"Regional contribution agreement" or "RCA" means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into and was approved by COAH and/or Superior Court prior to July 18, 2008, to transfer a portion of a municipality's affordable housing obligation to another municipality within its housing region.

"Regional median income" means the median income by household size for an applicable housing region, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

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

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

"Residential development fee" means money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of this subchapter but does not include a market-rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

"Spending plan" means a method of allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of low- and moderate-income individuals.

“State Development and Redevelopment Plan” or “State Plan” means the plan prepared pursuant to sections 1 through 12 of the “State Planning Act,” P.L.1985, c. 398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c. 398 (C.52:18A-200).

“Supportive housing household” means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant’s self-identification of household members on the affordable housing application.

“Supportive housing sponsoring program” means grant or loan program which provided financial assistance to the development of the unit.

“Supportive housing unit” means a restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project’s Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. Supportive housing units are also referred to as permanent supportive housing units.

“Transitional housing” means temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; (2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the department; and (4) allows households to remain for a minimum of six months.

"Treasurer" means the Treasurer of the State of New Jersey.

"UHAC" means the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

“Unit type” means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2 units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

"Very-low-income household" means a household with a household income less than or equal to 30 percent of the regional median income.

"Very-low-income housing" means housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

"Veteran" means a veteran as defined at N.J.S.A. 54:4-8.10.

"Veterans' preference" means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

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

§94-87.2 Monitoring and Reporting Requirements

A. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

1. The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department’s website at https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml.

2. On or before February 15 of each year, the municipality shall provide annual reporting o f its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.

3. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

§94-87.3 Municipality-wide Mandatory Set-Aside

A. development, other than single-family family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20%.
B. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.

C. All such affordable units shall be governed by this ordinance, the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.

D. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.

E. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.

F. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.

G. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall address the fractional unit as follows:

   1. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units and shall also contribute the fractional subsidy payment ("fractional subsidy payment") to be made to the municipality and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the municipality as the average subsidy reflected in financial pro formas for 100% affordable housing or subsidized developments in the municipality or region on file with the municipality. For example, if seven total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirements above:

      The developer shall round up the 0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units; or The developer shall round the set-aside downward so as to construct only one affordable unit AND shall pay into the municipal affordable housing trust fund a fractional subsidy payment equal to the dollar amount established by the municipality multiplied by 0.4.

94-87.4 Affordable Housing Programs

A. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions." The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.

B. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation).

1. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
2. Both ownership and rental units shall be eligible for rehabilitation funds.
3. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
4. The municipality shall dedicate a minimum average hard cost of $10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
5. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
6. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
    i. f a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
    ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant's current rent or the maximum rent permitted under UHAC.
    iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
    iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.

C. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
    1. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units .
    2. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
    3. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.
    4. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
    5. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.

6. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of $25,000 per unit to subsidize the creation of each low-income accessory apartment or $20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.

D. Market to Affordable program (per N.J.A.C. 5:97-6.9).
   1. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
   2. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
   3. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
   4. A minimum subsidy of $25,000 per moderate-income unit and/or $30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
   5. The units shall comply with UHAC with the following exceptions:
      i. Bedroom distribution (N.J.A.C. 5:80-26.4).
      ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
   6. Affordability average (N.J.A.C. 5:80-26.4); however:
      i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
      ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.

E. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
   1. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
      i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
      ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
      iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
      iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.

v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.

vi. The deed restriction for the extended control period shall be filed with the County Clerk.

F. Assisted Living Residence (per N.J.A.C. 5:97-6.11).

1. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
2. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
3. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
4. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
5. Low- and moderate-income residents cannot be charged any upfront fees.
6. The units shall comply with UHAC with the following exceptions:

    i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;

    ii. The deed restriction may be on the facility, rather than individual apartments or rooms;

    iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and

7. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.

G. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).

1. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:

    i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.

    ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.

    iii. Occupancy shall not be restricted to youth under 18 years of age.

    iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.

    v. The bedrooms and/or units shall comply with UHAC with the following exceptions:

        (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;

        (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).

    vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

vii. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.

viii. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:

(a) An Affirmative Marketing Plan in accordance with D1 above; and

(b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.

ix. The sponsor/owner shall complete annual monitoring as directed by the MHL.

§94-87.5 New Construction Programs (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.).

A. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.

B. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

C. Design. The following design requirements apply to affordable housing developments, excluding prior round units.

1. Design of 100 percent affordable developments:

i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

x. Each bedroom in each restricted unit must have at least one window.

xi. Restricted units must include adequate air conditioning and heating.

2. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.

   i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.

   ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.

   iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.

   iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.

   v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.

   vi. Each bedroom in each restricted unit must have at least one window.

   vii. Restricted units must be of the same unit type as market-rate units within the same building.

   viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

3. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:

   i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.

   ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.

   iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.

xii. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

xiii. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).

xiv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.

xv. Each bedroom in each restricted unit must have at least one window; and

xvi. Restricted units must include adequate air conditioning and heating.

D. Utilities.

1. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
2. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).

E. Low/moderate split and bedroom distribution.

1. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
2. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units. Washington Borough has chosen to allow rounding.
3. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
4. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
   i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
   ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
   iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units. Washington Borough has chosen to allow rounding.
   iv. At least 30% of all low- and moderate-income units, rounded up, shall be two-bedroom units. Washington Borough has chosen to allow rounding.
   v. At least 20% of all low- and moderate-income units, rounded up, shall be three-bedroom units. Washington Borough has chosen to allow rounding.
   vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
5. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-

restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.

F. Accessibility requirements.
   1. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
   2. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
      i. An adaptable toilet and bathing facility on the first floor;
      ii. An adaptable kitchen on the first floor;
      iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
      iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
      v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
      vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
         (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
         (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
         (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
         (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
         (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
      vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

§94-87.6 Regional Income Limits.

A. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
B. Regional income limits are based on regional median income, which is established by a regional weighted average of the "median family incomes" published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
C. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

§94-87.7 Maximum Initial Rents And Sales Prices.

A. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
B. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
C. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income.
D. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
E. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
F. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
G. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
   1. A studio or efficiency unit shall be affordable to a one-person household;
   2. A one-bedroom unit shall be affordable to a one and one-half person household;
   3. A two-bedroom unit shall be affordable to a three-person household;
   4. A three-bedroom unit shall be affordable to a four and one-half person household; and
   5. A four-bedroom unit shall be affordable to a six-person household.
H. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
   1. A studio or efficiency unit shall be affordable to a one-person household;
   2. A one-bedroom unit shall be affordable to a one and one-half person household; and
   3. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.

I. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

J. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.

K. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

§94-87.8 Affirmative Marketing.

A. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 and is required to be followed throughout the period of deed restriction.

C. The Affirmative Marketing Plan provides the following preference, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences:
   1. There shall be a regional preference for all households that live and/or work in Housing Region 2 comprising of Essex, Morris, Union, and Warren Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.

E. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.

F. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.

G. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. The affirmative marketing plan shall include the following community and regional organizations: Fair Share Housing Center; the Latino Action Network; NORWESCAP; Supportive Housing Association; Central Jersey Housing Resource Center; New Brunswick NAACP; Plainfield Area NAACP; Perth Amboy NAACP; Warren/Sussex NAACP; and Metuchen/Edison NAACP. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.

H. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

I. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

J. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner. This shall be included as a condition of all Land Use Board approvals.

§94-87.9 Selection of Occupants of Affordable Housing Units.

A. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.

B. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

§94-87.10 Occupancy Standards.

A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
   1. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
   2. Provide a bedroom for every two adult occupants;
   3. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
   4. Avoid placing a one-person household into a unit with more than one bedroom.

§94-87.11 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.

B. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).

C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.

D. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.

E. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
   1. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or

2. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.

F. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.

G. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

H. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

I. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

§94-87.12 Price Restrictions for Restricted Ownership Units and Resale Prices.

A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
    1. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
    2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.
        i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
        ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
    3. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
        i. those that render the unit suitable for a larger household or the addition of a bathroom.
        ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
    4. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§94-87.13 Buyer Income Eligibility.

A. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.
C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
    1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
    2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
    3. The household is currently in substandard or overcrowded living conditions;
    4. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

§94-87.14 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
B. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

§94-87.15 Control Periods for Restricted Rental Units.

A. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
B. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
C. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
D. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
E. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
F. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
G. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
   1. Sublease or assignment of the lease of the unit;
   2. Sale or other voluntary transfer of the ownership of the unit;
   3. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
   4. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

§94-87.16 Rent Restrictions for Rental Units; Leases and Fees.

A. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
B. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.
C. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
   1. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility

submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.

D. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
E. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
F. Pet fees may not exceed $30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
G. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
H. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

§94-87.17 Tenant Income Eligibility.

A. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
    1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
    2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
    3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
    1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
    2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
    3. The household is currently in substandard or overcrowded living conditions;
    4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
    5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
C. The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§94-87.18 Municipal Housing Liaison.

A. The Municipal Housing Liaison shall be approved by municipal resolution.

B. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
    1. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
    2. The oversight of the Affirmative Marketing Plan and affordability controls.
    3. When applicable, overseeing and monitoring any contracting Administrative Agent.
    4. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
    5. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
    6. Coordinating meetings with affordable housing providers and administrative agents, as needed.
    7. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
    8. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
    9. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
    10. Listing on the municipal website contact information for the MHL and Administrative Agents.

§94-87.19 Administrative Agent.

A. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
B. The fees for administrative agents shall be paid as follows:
    1. Administrative agent fees related to rental units shall be paid by the developer/owner.
    2. Administrative agent fees related to initial sale of units shall be paid by the developer.
    3. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
    4. Administrative agent fees related to ongoing administration and enforcement shall be paid by the developer.
C. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
D. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
    1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
    2. Affirmative marketing:
        i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
        ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
    3. Household certification.

i. Soliciting, scheduling, conducting and following up on interviews with interested households.
ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the firm, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.

4. Affordability controls.
   i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
   ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
   iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
   iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
5. Records retention.
   i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
   ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
6. Resales and re-rentals.
   i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
   ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
7. Processing requests from unit owners.
   i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
   ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
   iii. Notifying the municipality of an owner's intent to sell a restricted unit.
   iv. Making determinations on requests by owners of restricted units for hardship waivers.
8. Enforcement.
   i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.

9. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

§94-87.20 Responsibilities of The Owner of a development containing affordable units.

A. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
   1. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
   2. The total number of units in the project and the number of affordable units.
   3. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
   4. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
   5. A projected construction schedule.
   6. The location of any common areas and elevators.
   7. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
B. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
   1. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
   2. Provide to the administrative agent a description of any applicable fees.
   3. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
   4. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
   5. Provide to the administrative agent a proposed form of lease for any rental units.
   6. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive that the tenant selection criteria for applicants for non-restricted units.
   7. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

C. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
   1. Proposed pricing for all units, including any purchaser options and add-on items.
   2. Condominium or homeowner association fees and any other applicable fees.
   3. Estimated real property taxes.
   4. Sewer, water, trash disposal, and any other utility assessments.
   5. Flood insurance requirement, if applicable.
   6. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§94-87.21 Enforcement of Affordable Housing Regulations

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
B. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
   1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
      i. A fine of not more than $500 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
      ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
      iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
C. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be $5,000, the fine for the second offense of noncompliance shall be $10,000, and the fine for each subsequent offense of noncompliance shall be $15,000.
D. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
   1. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality , including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

2. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
3. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
4. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
5. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.
6. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

E. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be

60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

F. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.

G. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.

H. Appeals
   1. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

§94-87.22 Development Fees.

A. Purpose
   1. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

B. Basic Requirements
   1. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
   2. The municipality shall not spend development fees until the court has approved a plan for spending such fees.

C. Residential Development Fees
   1. Imposed fees
      i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
      ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
      Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
   2. Eligible exactions, ineligible exactions and exemptions for residential development
      i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where

the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

iii. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

iv. Developers of educational facilities shall be exempt from paying a development fee.

v. Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

vi. A development shall be exempt from an increase in the percentage of the development fee, provided the building permit was issued prior to the effective date of this article, or prior to any subsequent ordinance increasing the fee percentage. The developer shall have the right to pay the fee based on the percentage in effect on the date the building permit was issued.

vii. Any development or improvement to structures of owner-occupied property in which there is located an affordable accessory residence shall be exempt. This exemption shall only apply to development or improvements to the property during the period of affordability controls.

viii. The construction of a new accessory building or other structure on the same lot as the principal building shall be exempt from the imposition of development fees if the assessed value of the structure is determined to be less than $100,000.

D. Non-Residential Development Fees

1. Imposition of fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

2. Eligible exactions, ineligible exactions and exemptions for non-residential development

i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.

ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
5. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

E. Collection Procedures
   1. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
   2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, “State of New Jersey Non-Residential Development Certification/Exemption,” to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
   3. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
   4. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
   5. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
   6. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
   7. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
   8. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

F. Appeal of development fees
   1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of

the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

G. Affordable Housing Trust Fund

1. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
   i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
   ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
   iii. Rental income from municipally operated units;
   iv. Repayments from affordable housing program loans;
   v. Recapture funds;
   vi. Proceeds from the sale of affordable units; and
   vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
3. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
4. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
   i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
   ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
   iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
   iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
   v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
   vi. Revocation of compliance certification or a judgment of compliance and repose;
   vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
   viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
5. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

H. Use of Funds

1. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity

approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.

2. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
3. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
    i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
    ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
4. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

I. Monitoring
    1. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

J. Ongoing Collection of Fees
    1. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.

2. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

K. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

Section 3. Repealer. All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Severability. If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

ORDINANCE 2nd Reading

(Public Hearing and Adoption)

Motion made by Musick and seconded by Infinito to open the public hearing for Ordinance 2026-01, all were in favor.

Hearing no public comments, motion to close the public hearing made by Musick and seconded by Infinito, all were in favor.

Motion to adopt Ordinance 2026-01 made by Musick and seconded by Infinito.
Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.

Ayes: 7 Nays: 0
Motion passes.

1. **BOROUGH OF WASHINGTON**
2. **WARREN COUNTY, NEW JERSEY**
3. **ORDINANCE 2026-01**

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 85 VEHICLES AND TRAFFIC OF THE CODE OF THE BOROUGH OF WASHINGTON

§ 85-23. Schedule I: No Parking.

In accordance with the provisions of § 85-7, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

§ 85-24. Schedule II: No Parking Certain Hours.

In accordance with the provisions of § 85-8, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Adams Street	East	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Van Buren Street to McKinley Avenue
Adams Street	West	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Van Buren Street to McKinley Avenue
Alvin Sloan	Both	Friday 7:00 a.m. to 4:00 p.m.	Entire Length
Beethoven Avenue	North	Sunday 5:00 p.m. to 5:00 p.m. Monday	Railroad Avenue to dead end
Beethoven Avenue	South	All Except Sunday 5:00 p.m. to 5:00 p.m. Monday	Railroad Avenue to dead end
Belvidere Avenue	East	Thursday 5:00 a.m. to 7:00 a.m. Thursday	NJ RT57 to East Stewart Street
Belvidere Avenue	West	Wednesday 5:00 a.m. to 7:00 a.m. Wednesday	NJ RT57 to West Stewart Street
Belvidere Avenue	East	Thursday 7:00 a.m. to 4:00 p.m. Thursday	East Stewart Street to Borough Line
Belvidere Avenue	West	Wednesday 7:00 a.m. to 4:00 p.m. Wednesday	West Stewart Street to Borough Line
Boulevard	South	All Except 5:00p.m. Mon to 5:00p.m. Tues.	From 100 feet east of the easterly curbline of Route No. 31 to 100 feet from the easterly curbline of Route No. 57
Boulevard	North	5:00 p.m./Mon to 5:00 p.m. / Tues	Entire Length
Broad Street	East	Tuesday 5:00 a.m. to Tuesday 8:00 a.m.	Entire Length
Broad Street	West	Monday 5:00 a.m. to 8:00 a.m. Monday	Entire Length

Carlton Avenue	North	Wednesday 7:00 a.m. to 4:00 p.m. Wednesday	Belvidere Avenue to Alvin Sloan Avenue
Carlton Avenue	South	Thursday 7:00 a.m. to 4:00 p.m. Thursday	Belvidere Avenue to Alvin Sloan Avenue
East Church Street	North	Wednesday 8:00 a.m. to 5:00 p.m. Wednesday	Taylor Street to Jackson Avenue
East Church Street	South	Thursday 5:00 a.m. to 8:00 a.m. Thursday	Belvidere Avenue East 335 feet
East Church Street	South	Thursday 8:00 a.m. to 5:00 p.m. Thursday	Belvidere Avenue East 335 feet to Jackson Avenue
West Church Street	North	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to North Lincoln Avenue
West Church Street	South	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to North Lincoln Avenue
Cornish Street	North	All except Sunday 5:00 p.m. to 5:00 p.m. Monday	South Wandling to South Lincoln
Cornish Street	South	Sunday 5:00 p.m. to 5:00 p.m. Monday	South Wandling to South Lincoln
Christine Place	Both	Friday 7:00 a.m. to 12:00 p.m.	Entire Length
Davis Street	East	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Entire Length
Davis Street	West	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Entire Length
Fillmore Street	North	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Adams Street to Prosper Way
Fillmore Street	South	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Adams Street to Prosper Way

Fisher Avenue	East	Sunday 5:00 p.m. to 5:00 p.m. Monday	Oshea Street to Borough Line
Fisher Avenue	West	Monday 5:00 p.m. to Tuesday 5:00 p.m	Oshea Street to Borough Line
Flower Avenue	East / North	Monday 7:00 a.m. to 4:00 p.m.	NJ RT57 to Sunrise Terrace
Flower Avenue	West / South	Tuesday 7:00 a.m. to 4:00 p.m.	NJ RT57 to Sunrise Terrace
West Gardner Court	East	Sunday 5:00 p.m. to 5:00 p.m. Monday	West Cornish Street to West Marble Street
West Gardner Court	West	Monday 5:00 p.m. to Tuesday 5:00 p.m	West Cornish Street to West Marble Street
Gardner Street (West Cornish Street)	North	ALL	From a point 210 feet east of the intersection of South Prospect Street thence easterly a distance of 45 feet
Gibson Place	North	Wednesday 5:00 p.m. to 5:00 p.m. Thursday	NJ RT31 to McKinley Avenue
Gibson Place	South	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	NJ RT31 to McKinley Avenue
Green Street	North	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to end
Green Street	South	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to end
School Street	East	Wednesday 5:00 p.m. to 5:00 p.m. Thursday	NJ RT31 to Hahn Street
School Street	West	All except Wednesday 5:00 p.m. to 5:00 p.m. Thursday	NJ RT31 to Hahn Street
Jackson Avenue	East	All except Wednesday 5:0o p.m. to 5:00 p.m. Thursday	NJ RT57 to Brown Street

Jackson Avenue	West	Wednesday 5:0o p.m. to 5:00 p.m. Thursday	NJ RT57 to Brown Street
North Jackson Avenue	East	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Entire Length
North Jackson Avenue	West	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Entire Length
Harding Drive	North	All Except 5:00 p.m Monday to 5:00 p.m. Tuesday	Flower Avenue to end
Harding Drive	South	Monday 5:00 p.m. to Tuesday 5:00 p.m.	Flower Avenue to end
Heather Hill Road	Both	Mondy 8:00 a.m. to 5:00 p.m.	Entire Length
Hillcrest Avenue	North	Monday 6:00 a.m. to 1:00 p.m.	From Broad Street to Parkview Avenue
Hillcrest Avenue	South	Tuesday 6:00 a.m. to 1:00 p.m.	From Broad Street to Parkview Avenue
James Street	North	All Except Monday 5:00 p.m. to 5:00 p.m. Tuesday	Entire Length
James Street	South	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Entire Length
East Johnston Street	North	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Taylor Street
East Johnston Street	South	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Taylor Street
West Johnston Street	North	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Grand Avenue
West Johnston Street	South	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Grand Avenue

Lambert Street	South	7:30 a.m. to 3:30 p.m. on days when school is in session	Beginning 280 feet west of the westerly curbline of McDonald Street and extending to a point 358 feet west thereof
Lambert Street	Both	Friday 7:00 a.m. to 4:00 p.m.	Entire Length
Lenape Trail	North	Monday 5:00 a.m. to 12:00 p.m. Monday	Ramapo Way to 11 Lenape Trail
Lenape Trail	West	Monday 5:00 a.m. to 12:00 p.m. Monday	11 Lenape Trail to 27 Lenape Trail and 79 Lenape Trail to cul-da-sac.
Lenape Trail	South	Monday 5:00 a.m. to 12:00 p.m. Monday	27 Lenape Trail to 79 Lenape Trail
Lenape Trail	South	Tuesday 5:00 a.m. to Tuesday 12:00 p.m.	Ramapo Lane to 26 Lenape Trail
Lenape Trail	East	Tuesday 5:00 a.m. to Tuesday 12:00 p.m.	26 Lenape Trail to 36 Lenape Trail and 70 Lenape Trail to cul-da-sac
Lenape Trail	North	Tuesday 5:00 a.m. to Tuesday 12:00 p.m.	36 Lenape Trail to 70 Lenape Trail
North Lincoln Avenue	East	Wednesday 5:00 p.m. to 5:00 p.m. Thursday	West Church Street to Carlton Avenue
North Lincoln Avenue	West	All except Wednesday 5:00 p.m. to 5:00 p.m. Thursday	West Church Street to Carlton Avenue
South Lincoln Avenue	East	Sunday 5:00 p.m. to 5:00 p.m. Monday	Hann Terrace to Willow Street
South Lincoln Avenue	West	All except Sunday 5:00 p.m. to 5:00 p.m. Monday	Hann Terrace to Willow Street
Marble Street	Both	Monday 8:00 a.m. to 5:00 p.m. Monday	Entire Length
McDonald Street	East	Thursday 7:00 a.m. to 4:00 p.m.	Carlton to the Cul-de-sac

McDonald Street	West	Friday 7:00 a.m. to 4:00 p.m.	Carlton to the Cul-de-sac
McKinley Avenue	North	Thursday 5:00 a.m. to 5:00 p.m. Thursday	NJ RT31 to Gibson Place
McKinley Avenue	South	Wednesday 5:00 a.m. to 5:00 p.m. Wednesday	NJ RT31 to Gibson Place
McKinley Avenue	East	Thursday 5:00 a.m. to 5:00 p.m. Thursday	Gibson Place to Van Buren Street
McKinley Avenue	West	Wednesday 5:00 a.m. to 5:00 p.m. Wednesday	Gibson Place to Van Buren Street
Miller Avenue	North	Friday 7:00 a.m. to 4:00 p.m.	Entire Length
Miller Avenue	South	Thursday 7:00 a.m. to 4:00 p.m.	Entire Length
Mozart Avenue	North	Sunday 5:00 p.m. to 5:00 p.m. Monday	From Broad Street to Un-named alley
Mozart Avenue	South	All except Sunday 5:00 p.m. to 5:00 p.m. Monday	From Broad Street to Un-named alley
Myrtle Avenue	Both	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
New Street	North	Wednesday 8:00 a.m. to 4:00 p.m. Wednesday	Entire Length
New Street	South	Thursday 8:00 a.m. to 4:00 p.m. Thursday	Entire Length
Nunn Avenue	North	All except Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
Nunn Avenue	South	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length

Oakridge Road	Both	Monday 8:00 a.m. to 4:00 p.m.	Elizabeth Avenue to Borough Line
Oakwood Terrace	East	Monday 5:00 p.m. to Tuesday 5:00 p.m.	Entire Length
Oakwood Terrace	West	Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Ophelia Street	Both	8:00 a.m. Monday to 5:00 p.m. Monday	Entire Length
Oshea Street	North	All except Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Oshea Street	South	Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Park Avenue	North	Monday 8:00 a.m. to Monday 5:00 p.m.	NJ RT 31 to Railroad Avenue
Park Avenue	South	Tuesday 8:00 a.m. to Tuesday 5:00 p.m.	NJ RT 31 to Railroad Avenue
Lower Park Drive	North	Tuesday 8:00 a.m. to 5:00 p.m. Tuesday	From Route 31 to Park Entrance Road
Lower Park Drive	South	All except Tuesday 8:00 a.m. to 5:00 p.m. Tuesday	From Route 31 to Park Entrance Road
Lower Park Drive Include Parallel Parking Spaces	West	Monday 8:00 a.m. to 12:00 p.m.	Youmans Avenue to Park Entrance Road
Pleasant View Avenue	East	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Pershing Avenue to Borough Line
Pleasant View Avenue	West	All Except Monday 5:00 p.m. to 5:00 p.m. Tuesday	Pershing Avenue to Borough Line
North Pickle Avenue	Both	Sunday 5:00 p.m. to Monday 5:00 p.m.	Sunrise Terrace to Borough Line

South Pickle Avenue	East	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Entire Length
South Pickle Avenue	West	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
Pohatcong Avenue	Both	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
Presidential Drive	East	Sunday 5:00 p.m. to 5:00 p.m. Monday	Flower Avenue to Harding Drive
Presidential Drive	West	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Flower Avenue to Harding Drive
North Prospect Street	Both	Friday 7:00 a.m. to 12:00 p.m.	NJ RT57 to Kinnaman Avenue
Prosper Way	East	Tuesday 5:00 a.m. to 5:00 p.m.Tuesday	Entire Length
Prosper Way	West	Wednesday 5:00 a.m. to 5:00 p.m. Wednesday	Entire Length
Railroad Avenue	East	Monday 5:00 p.m. to Tuesday 5:00 p.m.	NJ RT57 to Borough Line
Railroad Avenue	West	Sunday 5:00 p.m. to Monday 5:00 p.m.	NJ RT57 to Borough Line
Ramapo Way	West	Monday 5:00 p.m. to 12:00 p.m. Monday	NJ Rt 57 to end
Ramapo Way	East	Tuesday 5:00 a.m. to Tuesday 12:00 p.m.	NJ Rt 57 to end
Ridge Top Terrace	North	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
Ridge Top Terrace	South	Monday 5:00 p.m. to Tuesday 5:00 p.m	Entire Length

Robin Road	East	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
Robin Road	West	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Entire Length
NJ RT57	North	Monday and Friday 5:00A.M. to 7A.M.	Borough Line to Borough Line
NJ RT 57	South	Tuesday and Friday 5:00A.M. to 7A.M.	Borough Line to Borough Line
Short Street	Both	Sunday 5:00 p.m. to 5:00 p.m. Monday	Entire Length
State Street	North	Thursday 8:00 a.m. to 4:00 p.m.	Entire Length
State Street	South	Wednesday 8:00 a.m. to 4:00 p.m.	Entire Length
East Stewart Street	North	Wednesday 5:00 p.m. to 5:00 p.m. Thursday	Jackson Avenue to Belvidere Avenue
East Stewart Street	South	All except Wednesday 5:00 p.m. to 5:00 p.m. Thursday	Belvidere Avenue to Taylor Street
East Stewart Street	South	All Except Wednesday 5:00 p.m. to 5:00 p.m. Thursday	School Street to Jackson Avenue
West Stewart Street	Both	Wednesday 8:00 a.m. to 12:00 p.m. Wednesday	
West Stewart	North	8:00 a.m. to 4:00 p.m. Monday Through Friday	From Grand Avenue to North Prospect Street
West Stewart Street	South	8:00 a.m. to 4:00 p.m. Monday through Friday	From McDonald Street to North Prospect Street
Sunrise Terrace	North / East	Monday 5:00 p.m. to 5:00 p.m. Tuesday	From North Pickle to 153 Sunrise Terrace

Sunrise Terrace	North	Sunday 5:00 p.m. to Monday 5:00 p.m.	From 153 Sunrise Terrace to Oakwood Terrace
Sunrise Terrace	South	Sunday 5:00 p.m. to Monday 5:00 p.m.	From 153 Sunrise Terrace to Oakwood Terrace
Sunrise Terrace	South / West	Monday 5:00 p.m. to 5:00 p.m. Tuesday	From North Pickle to 153 Sunrise Terrace
Taft Terrace	South / West	Sunday 5:00 p.m. to 5:00 p.m. Monday	Flower Avenue to Presidential Drive
Taft Terrace	North / East	Monday 5:00 p.m. to Tuesday 5:00 p.m.	Flower Avenue to Presidential Drive
Taylor Street	East	From 8:30 a.m. to 3:30 p.m. Monday through Friday	From East Church Street to East Stewart Street
Taylor Street	East	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	East Stewart Street to dead end
Taylor Street	West	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	East Stewart Street to dead end
Terrace Street	Both	Friday 7:00 a.m. to 1:00 p.m.	Entire Length
Valleyview Terrace	North	Monday 5:00 p.m. to Tuesday 5:00 p.m.	Entire Length
Valleyview Terrace	South	Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Van Buren Street	North	Wednesday 5:00 a.m. to 5:00 p.m. Wednesday	Adams Street to Prosper Way
Van Buren Street	South	Thursday 5:00 a.m. to 5:00 p.m. Thursday	Adams Street to Prosper Way
Vannatta Street	East	All except Tuesday 8:00 a.m. to 5:00 p.m. Tuesday	Entire Length

Vannatta Street	West	Tuesday 8:00 a.m. to 5:00 p.m. Tuesday	Entire Length
South Wandling Avenue	East	All except Monday 5:00 p.m. to Tuesday 5:00 p.m.	Cornish Street to Willow Street
South Wandling Avenue	West	Monday 5:00 p.m. to 5:00 p.m. Tuesday	Cornish Street to Willow Street
East Warren Street	North	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Taylor Street
East Warren Street	South	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Taylor Street
West Warren Street	North	Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Cul-de-sac
West Warren Street	South	All except Tuesday 5:00 p.m. to 5:00 p.m. Wednesday	Belvidere Avenue to Cul-de-sac
Willow Street	North	Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Willow Street	South	All except Sunday 5:00 p.m. to Monday 5:00 p.m.	Entire Length
Wilson Terrace	Both	Monday 8:00 a.m. to 4:00 p.m.	Entire Length
Wyoming Avenue	Both	Friday 8:00 a.m. to 1:00 p.m.	
Youmans Avenue	North	Monday 5:00 p.m. to Tuesday 5:00 p.m.	NJ RT 31 to Broad Street
Youmans Avenue	South	All except Monday 5:00 p.m. to Tuesday 5:00 p.m.	NJ RT 31 to Broad Street
Youmans Avenue	North	Tuesday 8:00 a.m. to Tuesday 5:00 p.m.	NJ Rt 31 to Park Avenue

Youmans Avenue	South	Monday 8:00 a.m. to Monday 5:00 p.m.	NJ RT 31 to Park Avenue

§ 85-27.1. Schedule VA: Resident Permit Parking.

A. Public parking shall be permitted in the following private parking lots by persons duly licensed pursuant to Subsection E hereof.

Location of Lot	Location of Spaces Within Lot	Restrictions
41 West Washington Avenue (corner of West Washington Avenue and South Lincoln Avenue)	10 spaces as delineated by signs and/or pavement markings.	1. No commercial vehicles shall be permitted to park in the 10 spaced delineated for public parking. 2. All permit holders must reside on South Lincoln Avenue ("Resident")

B. In addition to all other fines and penalties authorized by the Borough Code or New Jersey Statute, a vehicle parked in violation of this section shall be subject to towing, the cost of which to be paid for by the owner or operator of the vehicle before such vehicles shall be released.

C. Residents without available off-street public parking shall be given first priority for a parking permit. If every resident without available off-street public parking has been issued a parking permit then the remaining parking permits may be issued to any resident. The definition of "available off-street public parking" shall include having reasonable access to a Borough- owned parking (other than 41 West Washington Lot) lot within 200 feet of a residence.

D. A permit providing for parking pursuant to Subsection A may be obtained by application to the Zoning Officer by any resident. The fee for such application shall be $10 annually. Such application must be accompanied by the following:

(1) Proof of residence. Such proof may be in the form of a current driver's license; The

Zoning Officer may accept an alternate document as proof of residency within his/her discretion.

(2) Copies of applicant's driver's license and vehicle registration.

(3) Proof of automobile insurance in compliance with statutory minimum required amounts of coverage.

(4) Executed release and hold harmless agreement in a form on file with the Borough Clerk's office.

E. Permits issued pursuant to this section shall be issued annually and shall expire on December 31 of the appropriate year or shall automatically terminate upon permit holder no longer meeting the requirements pursuant to Subsections E and F herein.

F. Residents shall be entitled to receive one resident permit per household for a vehicle that is principally garaged or parked at the residence address, which fact shall be certified to by the resident at the time of application.

G. Resident permits shall be affixed to the vehicle to which they are issued, so as to be clearly visible and unobscured at the location hereafter set forth.. On vehicles with a rear window, the permit shall be placed on the inside surface at the lower left corner of the rear window. On vehicles without a rear window, the permit shall be placed on the inside surface of the rearmost left-hand side window at the lower right-hand corner of same.

H. All persons parking pursuant to permit shall comply with all applicable parking and traffic rules and regulations.

I. It shall be a violation of this section to photocopy, otherwise reproduce, or in any way create a facsimile or counterfeit permit. It shall be a violation hereof to display or otherwise use a permit known to be counterfeit. It shall be a violation hereof to furnish false information or
fraudulent documents in connection with an application for a permit. It shall be a violation to use or allow anyone to use a valid permit in violation of this section. Any person violating the provisions hereof shall be subject to a fine not to exceed $300 and/or imprisonment for not more than 10 days.

J. Other requirements and restrictions of permit holders.

(1) Only one permit per vehicle and one permit per household shall be issued.

(2) The applicant/permit holder must be the registered owner of the vehicle. Parking permits are not transferable to other operators or vehicles.

(3) Parking permits must be affixed to the rear window of the vehicle and readily visible.

(4) All vehicles for which a permit has been issued must be properly maintained, insured, and registered.

(5) Repairs of any type to a vehicle are prohibited in the subject parking lot.

(6) Parking permits are the property of the Borough of Washington. Permit holders that

no longer require parking shall return their permit to the Borough.

(7) Parking spaces in the subject parking lots are properly marked. If a designated parking space is not available, the permit holder may not occupy another spot that is not properly designated.

(8) During snow emergencies, no vehicle may be parked on Borough streets until the snow has ceased and the streets have been plowed and/or treated sufficiently and to the extent that parking will not interfere with the normal flow of traffic. Permit holders parked in a parking lot shall be responsible for moving their vehicle appropriately following snow emergencies to allow for proper snow removal in the parking lot.

(9) Commercial Vehicles are not permitted.

K. Suspension or revocation of permit; towing; hearing.

(1) Any parking license issued hereunder may be suspended or revoked by the Borough, acting through the Zoning Officer or Borough Police Officers, for any of the following reasons:

(a) The permit holder has knowingly made any false and materially incorrect statement in the application.

(b) The permit holder knowingly violates or knowingly permits or countenances the violation of any provision of this section.

(c) The permit is being abused or manipulated by a permit holder or the permit holder is violating the policies of the assigned lot.

(d) The permitted vehicle creates a hazardous condition (leaking fluid, etc.).

(2) No suspension or revocation of any permit issued hereunder shall be made until a 10-day written notice of suspension or revocation has been given to the permit holder
personally or by mailing the same by certified mail, return receipt requested, addressed to the permit holder at the address noted in the original application for the permit and a reasonable opportunity to be heard thereon afforded. The hearing shall be held before and conducted by the Borough Council. Such suspension or revocation shall apply to the permit holder and the residence noted in the application. Any revocation shall render the permit holder ineligible to receive any other permit under this section for a period of one year from the effective date thereof and may, in the discretion of the Borough Council, render the licensed premises ineligible for any future license under said article.

(3) Vehicles parked in violation of this section will be subject to towing at the owner's expense. Any vehicle creating a hazardous condition (leaking fluid, etc.) will be towed at the owner's expense.

Article XIV Municipal Parking Lots

§ 85-58. Lots to be regulated.

The use of said parking lots of the Borough of Washington shall be regulated, and the regulations shall be enforced as hereinafter provided.

§ 85-59. Names and locations of lots; hours; restrictions

The names and locations of the parking lots regulated by this article and the regulations applying to each of said parking lots shall be as follows:

A. Names and locations

1. Lot #1 - Midtown/Veterans Park Lot
    i. Located Adjacent to Veterans Park (46-68 East Washington Avenue)
2. Lot #2 - Borough Hall Lot
    i. Located Adjacent to the Municipal Building
3. Lot #3 – Borough Hall Auxiliary Lot
    i. Located next to Borough Hall Lot
4. Lot #4 – Vannatta Lot
    i. Located at the intersection of NJ RT 57 and Vannatta Street
5. Lot #5 – Broad Street Lot
    i. Located on the Westside of Broad Street across from Alleger Street (25-27 Broad Street)
6. Lot #6 – Borough Park Lot
    i. Located on the Southside of the Borough Park between NJ RT 31 and Broad Street

B. Hours

1. Lot #1: Permit required from 3:00 a.m. to 6:00 a.m.
2. Lot #2: No Parking from 3:00a.m. to 7:00 a.m.
3. Lot #3: Permit required from 3:00 a.m. to 6:00 a.m.
4. Lot #4: Permit required from 3:00 a.m. to 6:00 a.m.
5. Lot #5: Permit required from 3:00 a.m. to 6:00 a.m.
6. Lot #6: No Parking from a half-hour after sunset to sunrise, unless a Recreation Department-approved night activity, under outdoor lighting, is in progress, then, in such case, no vehicle shall remain parked beyond 30 minutes after the lights have been turned off until sunrise.

C. Lot Restrictions

4. Lot # 2: Parking is permitted in parking lots adjacent to the Municipal Building for Borough Hall business and for business at Taylor Street School. Overnight parking is prohibited from 3:00 a.m. to 7:00 a.m. except for Borough employees. Parking spaces located in the Borough Hall parking lot shall be designated as follows:

a) Those 12 parking spaces beginning at a point in the northeast corner of the Borough Hall parking lot and continuing 122 feet southeasterly therefrom shall be restricted to employees of the Borough of Washington only between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, excluding official Borough-recognized holidays.

b) Those five parking spaces beginning at a point in the southeast corner of the Borough Hall parking lot and continuing 53 feet northwesterly therefrom shall be restricted to individuals conducting business with the Borough of Washington.

c) Those six parking spaces beginning in the northwest corner of the Borough Hall parking lot and continuing 63 feet southeasterly therefrom shall be restricted to members of the Washington Fire Department in accordance with their official duties.

d) Those three parking spaces beginning from a point 63 feet southeast of the northwest corner of the Borough Hall parking lot and continuing 40 feet southeasterly therefrom shall be designated as handicapped parking.

e) Those four spaces beginning from a point 103 feet southeast of the northwest corner of the Borough Hall parking lot and continuing 47 feet southeasterly therefrom shall be restricted to fifteen-minute parking between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding official Borough-recognized holidays.

f) Vehicles parked in violation of these regulations or vehicles outside of official parking spaces delineated by the Borough of Washington will be subject to ticketing and/ or towing in accordance with §§ 85-63 and 85-64 of the Code of the Borough of Washington.

2. Lot #4: Church parking is permitted on Sundays between 7:00 a.m. and 2:00 p.m.

3. Lot #5: Shall be designated three-hour parking only between 8:00 a.m. to 6:00 p.m. Monday through Saturday.

§ 85-60. (Reserved)[2]

§ 85-61. Violations.

It shall be unlawful to park any vehicle on any of the aforementioned parking lots in any location or at any time other than in the locations and at the time designated as permitted in § 85-59 of this article.

§ 85-62. (Reserved)[3]

§ 85-63. Overtime parking a violation.

In lots designated with time limit parking, if any vehicle remains parked in any designated parking space beyond the time limit established by law, such vehicle shall be considered as parking overtime and beyond the period of legal parking and shall be in violation of this article, and the owner or operator of said vehicle shall be subject to the penalties provided in this chapter.

§ 85-64. Parking outside designated spaces prohibited.

It shall be unlawful for the owner or operator of any vehicle to stand or park said vehicle at any location on any of the aforementioned parking lots other than within an area or parking stall clearly marked with lines on the pavement of said lot such as to clearly indicate that said area is a parking stall intended to be used as the parking space for a vehicle on said lot, or to park any vehicle in a manner so that the vehicle is not entirely within the area so designated by the lines or markings on the pavement delineating such parking stall.

§ 85-65. Permit parking violations.

It shall be unlawful to park a vehicle in any municipal parking lot when permit parking rules are in effect without a valid permit affixed to said vehicle. Permits are only valid for parking in the lot approved at time of application for permit issuance.

§ 85-66. (Reserved)[5]

§ 85-67. (Reserved)[6]

§ 85-68. Enforcing agency.

The provisions of this article shall be enforced by the Police Department serving the Borough of Washington under the direction of the Chief of said Department and by the Code Enforcement Officer and crossing guards so authorized by the Borough of Washington to enforce state, county or municipal statutes, resolutions, ordinances or regulations related to the parking of vehicles within the municipality in accordance with the provisions of N.J.S.A. 40A:9-154.7 et seq.

§ 85-69. (Reserved)[7]

§ 85-70. Parking permits for municipal lots

Parking permits in a form, shape and color to be designated by the Borough of Washington shall be available for purchase from the Borough Clerk for the sum stated below for overnight parking in municipal parking lots designated in § 85-59B. An overnight permit for municipal lots shall be effective from 3:00 a.m. to 6:00 a.m. Any vehicle parking in an area requiring a permit that does not have a permit shall be towed away at the owner's expense and risk. Permits shall be for Borough Residents only. No commercial vehicles.

1. Lot #1: $18.00 per Month; $198.00 Annually.

2. Lot #3: $12.00 per Month; $132.00 Annually
3. Lot #4: $15.00 per Month; $165.00 Annually
4. Lot #5: $12.00 per Month; $132.00 Annually.

RESOLUTIONS
Motion made by Musick and seconded by Infinito to adopt Resolution 2026-27
Discussion: Gorshkov inquired about some of the wording in the body of the resolution. Attorney Peterson explained this isn't the adoption, it's an introduction where final approval would be at the March 17th meeting.

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 6 Nays: 1 (Gorshkov)
Motion passes.

RESOLUTION 2026- 27

INTRODUCING AND APPROVING THE BUDGET OF THE WASHINGTON BOROUGH BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the governing body of the Borough of Washington on June 4, 2003 adopted Ordinance 7-2003 creating the Washington Borough Special Improvement District; and

WHEREAS, the governing body of Borough of Washington designated the Washington Borough Business Improvement District Management Corporation as the District Management Corporation for the Special Improvement District; and

WHEREAS, the Washington Borough Business Improvement District Management Corporation Board of Directors have approved a 2026 Business Improvement District Budget for submittal to Borough Manager for submission to the Mayor and Council of the Borough of Washington for their consideration; and

WHEREAS, pursuant to N.J.S.A. 40:56-80 and N.J.S.A. 40:56-84, the governing body of Borough of Washington is required to approve the budget and fix the time and place for the holding of a public hearing upon the budget;

WHEREAS, the governing body of Washington Borough has determined that at least ten days prior to the hearing a complete copy of the proposed budgets shall be: (a) posted on the bulletin board in the Borough Municipal Building; (b) made available to each person requesting the same before and during the public hearing; (c) a copy of the budget shall be advertised along with the date, time and place of the hearing in a newspaper published in the county and circulating in the municipality at least 10 days prior to the hearing; and (d) the hearing shall be held not less than 28 days after the approval of the budget.

NOW, THEREFORE, BE IT RESOLVED the governing body of the Borough of Washington that:

(1) The Washington Borough Business Improvement District budget is hereby introduced and approved by the governing body of the Borough of Washington for the period of January 1, 2026 – December 31, 2026 in the amount of $367,500.

(2) The hearing on the Washington Borough Business Improvement District Budget shall be Tuesday, March 17, 2026;

(3) A special assessment in the amount of **$275,000** will be imposed and will be collected with either the regular tax payment (or payment in lieu of taxes), or otherwise, on properties located within the Borough of Washington as set forth within Ordinance 7-2003 as amended from time to time and the assessment proposed will be determined by the Borough Assessor;

(4) Payments received by the Borough of Washington for the District will be transferred to the Washington Borough Business Improvement District Management Corporation to be expended in accordance with the approved budget;

(5) The Borough Clerk will be authorized to forward a certified copy of the adopting resolution to Washington Borough Business Improvement District Management Corporation, the Warren County Board of Taxation, and the Director of the Division of Local Government Services in the State of New Jersey Department of Community Affairs after the public hearing and adoption by a majority vote of the full membership of the governing body.

(6) The proposed Budget is attached and made part of this Resolution.

Motion made by Musick and seconded by Infinito to adopt Resolution 2026-28.

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

RESOLUTION 2026-28

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 14, 2025 to CHANGSHENG LU, 628 N BUTRICK ST, WAUKEGAN, IL 60085, in the amount of $980.72 for taxes or other municipal liens assessed for the year 2024 in the name of WOJDYLA, KAZIMIERZ & TERESA as supposed owners, and in said assessment and sale were described as 108 N PROSPECT ST, Block 8 Lot 7, which sale was evidenced by Certificate #25-00011, and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 1/30/26 and before the right to redeem was cut off, as provided by law, TERESA WOJDYLA claiming to have an interest in said lands, did redeem said lands claimed by CHANGSHENG LU by paying the Collector of Taxes of said taxing district of Washington Borough the amount of $1,062.33 which is the amount necessary to redeem Tax Sale Certificate #25-00011.

NOW THEREFORE BE IT RESOLVED, on this 17th day of February, 2026 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to CHANGSHENG LU, 628 N BUTRICK ST, WAUKEGAN, IL 60085 in the amount of **$2,362.33** (This consists of $1,062.33 Certificate Amount redeemed + $1,300.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 8 Lot 7 from the tax office records.

Motion made by and seconded by to adopt Resolution 2026-29
Discussion France asked if this person was already hired and asked what department. Manager Bond responded that she was hired and is working in the accounts payable department.

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes:7 Nays: 0
Motion passes.

RESOLUTION 2026-29

RESOLUTION BY THE MAYOR AND COUNCIL OF THE BOROUGH OF WASHINGTON TO RATIFY THE HIRING OF A PART-TIME ACCOUNT CLERK

WHEREAS, the Borough of Washington has a need for a Part-Time Account Clerk to fill the vacancy that will be left by the resignation of the former Part-Time Account Clerk; and

WHEREAS, the Borough Manager hired Tracy Quamme as Part-Time Account Clerk on January 1, 2026, at an Hourly Rate of $28.50 with the vacation and sick carryover from the Washington Borough Library;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, hereby ratify the appointment of Tracy Quamme to the position of Part-Time Account Clerk.

Motion made by Musick and seconded by Infinito to adopt Resolution 2026-30

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

Resolution 2025-30

Resolution of Support from Local Governing Body Authorizing the

Sustainable Jersey Grant Application

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Borough of Washington strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the Borough of Washington is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants Program;

THEREFORE, the Mayor and Council of the Borough of Washington has determined that the Borough of Washington should apply for the aforementioned Grant.

THEREFORE, BE IT RESOLVED, that Mayor and Council of the Borough of Washington, Warren County, State of New Jersey, authorize the submission of the aforementioned Sustainable Jersey Grant.

Motion made by Musick and seconded by Infinito to adopt Resolution 2026-31

Roll call: Brown, France, Gorshkov, Infinito, Matteo, Musick and Cox.
Ayes: 7 Nays: 0
Motion passes.

RESOLUTION 2026-31
A RESOLUTION AUTHORIZING THE RELEASE OF SEWER CONNECTION ESCROW, FOR THE IMPROVEMENTS TO BLOCK 21.01, LOT 4.02 IN THE AMOUNT OF $1,071.25, HELD IN TRUST BY THE BOROUGH OF WASHINGTON

WHEREAS, Laurie Getto. has requested the release of the Sewer Connection Escrow to Block 21.01, Lot 4.02; and

WHEREAS, the project has been completed and all inspections and time frames completed; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Clerk is authorized to release Sewer Connection Escrow in the amount of $1,071.25.

OPEN PUBLIC COMMENT

Motion made by Musick and seconded by Infinito to open public comment, all were in favor.

Tracy Unangst spoke before council with regards to Councilman Matteo making comments on social media regarding fixing up the basketball courts and having a skate park. Ms. Unangst also stated Mr. Matteo went up and cleared snow off the closed basketball courts that were not authorized for him to do so and has created a liability.
Matteo responded to Ms. Unangst and admitted he was wrong and all he wanted to do was for kids to have somewhere to play basketball. Matteo admitted he didn't realize the park was closed. Mayor Cox addressed the situation and advised Matteo to stop doing unauthorized work or making statements with regards to borough business where he shouldn't or isn't authorized to do so.

Tristen Lafaria(sp) stated that he is noticing an increase in garbage in alley way around his building with garbage near Ohana restaurant. Stated that there is a used baby carriage sitting in alleyway with garbage cans being overflowed. Mr. Lafaria also discussed parking issues where he has to park in the midtown lot. Stated he has been parking there for five year and just got a parking ticket. Manager Bond stated that it hasn't been really enforced before but an overnight permit is required. Parking permit discussions ensued. Lengthy discussions ensued regarding parking and lots being closed during the festivals.

Rob Mitchell inquired about new street signs.

Hearing no further public comment, motion made by Musick and seconded by Infinito to close the public portion, all were in favor.

COUNCIL REMARKS

Councilman France gave the following remarks:

- Thanked everyone for coming out and for them asking good questions. Stated that the parking issues will be ongoing and asked for patience.
- Inquired about the PILOT program and the building where Sal's pizza is and inquired if the new owner gest tax exemptions. Attorney Peterson explained what it would consist of with terms of the redevelopment agreement and PILOT agreements, and that they are transferrable.

Councilwoman Gorshkov gave the following remarks:

- Thanked everyone for coming out and thanked the police officer present.

Councilman Matteo gave the following remarks:

- Thanked Commissioner James Kern with regards to data centers prohibiting them in the county.
- Apologized again to Ms. Unangst in rushing the clearing of the courts and will double check his thoughts instead of his impulsiveness. Stated that he is willing to volunteer to make it nice
- Acknowledged the recent passing of actors Duval and Vanderbeek.

Councilman Brown made the following remarks:

- Thanked everyone for coming out.
- Stated that people have has good common sense and there is a level of enforcement in the case of snow removal, being that it affects people for days.

Councilman Infinito gave the following remarks:

- Thanked everyone for coming out and to have a good night.

Deputy Mayor Musick made the following remarks:

- Thanked everyone for coming out and thanked Ms. Unangst for her concerns of the basketball court. Stated that she wishes that people listened to DPW and how it was stated that it was closed.
- Thanked Tristen for coming out for his concerns.

Mayor Cox gave the following remarks:

- Stated that she mirrors what most of council said tonight.
- Thanked everyone for coming out and state she appreciates everyone.
- Stated her appreciation to the DPW for snow removal.
- Stated that she feels bad that people have gotten tickets, but they need to clear the streets
- Thanked the panel for always being available and council for their input.

MEETING RECAP-

Manager Bond stated that they did good tonight and having a meeting that was nice and calm. Stated for everyone to enjoy the rest of their week.

EXECUTIVE SESSION

Motion made by Musick and seconded by Infinito to pass a resolution to enter into executive session at 7:09 PM, all were in favor.

RESOLUTION
AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act, P.L. 975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and
WHEREAS, this public body is of the opinion that such circumstances presently exist; and
WHEREAS, the Governing Body wishes to discuss contractual (Jade). Minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.
NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

Return to regular session, 7:12 PM:
Motion made by Musick and seconded by Gorshkov to return to regular session, all were in favor.

ADJOURN

Hearing no further business to come before Council, motion made by Musick and seconded by Gorshkov to adjourn the meeting at 7:12 PM, all were in favor.

Laurie A. Courter, RMC
Borough Clerk