

Wiss Law P.C.

Counsellors at Law

Raymond R. Wiss*
Certified Civil Trial Attorney

Timothy J. Wiss*

**Also Member New York Bar*

345 KINDERKAMACK ROAD
WESTWOOD, NEW JERSEY 07675
PHONE No. (201) 497-6680
FAX No. (201) 497-6677
Email: Office@Wiss-Law.Com

March 12, 2026

VIA eCOURTS

Hon. Stephan C. Hansbury, J.S.C.
Superior Court of New Jersey
Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601

**RE: IMO Borough of Hasbrouck Heights
Docket No: BER-L-360-25**

Dear Judge Hansbury:

This office represents the Borough of Hasbrouck Heights. Attached please find the following:

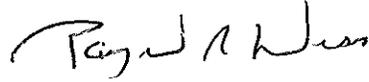
- Resolution of the Planning Board of the Borough of Hasbrouck Heights adopting Amendments to the Housing Element and Fair Share Plan of the Master Plan for Round Four
- Proposed Amendments to June 4, 2025 Housing Element and Fair Share Plan
- Resolution No. 81 - Endorsing the Amended Housing Element and Fair Share Plan
- Resolution No. 82 - Intent to Appropriate Funds or Bonds for Affordable Housing in the Event of a Funding Shortfall
- Resolution No. 83 - Adopting the Affirmative Fair Housing Marketing Plan
- Resolution No. 84 - Solicitation of Proposal for an Administrative Agent

- Ordinance No. 2600
- Ordinance No. 2601 - AHO-1
- Ordinance No. 2602 - AHO-2
- Ordinance No. 2603 - AHO-3

- Ordinance No. 2604 - AHO-4

We thank the Court for its continued attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Raymond R. Wiss". The signature is written in a cursive style with a large initial "R".

Raymond R. Wiss

RRW/cb

RES. No. 2026-4

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF HASBROUCK HEIGHTS ADOPTING AMENDMENTS TO THE HOUSING ELEMENT AND FAIR SHARE PLAN OF THE MASTER PLAN FOR ROUND FOUR

WHEREAS, the Borough of Hasbrouck Heights (hereinafter the “Borough” or “Hasbrouck Heights”) has a demonstrated history of voluntary compliance as evidenced by the receipt of the entry of a Judgment of Repose, dated September 27, 2019, approving the Borough’s Housing Element and Fair Share Plan for Round 3; Third Round record; and

WHEREAS, in March of 2024, Governor Murphy signed an amendment to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. into law making radical changes to the legislation (hereinafter “FHA II”) and

WHEREAS, FHA II established a procedure by which municipalities can secure approval of a Housing Element and Fair Share Plan; and

WHEREAS, that procedure contemplated that municipalities would adopt a resolution by January 31, 2025 committing to a fair share number and filing a declaratory relief action within 48 hours from adoption of the resolution and then adopting a Housing Element and Fair Share Plan (hereinafter “HEFSP” or “Plan”) by June 30, 2025 and filing the adopted Plan within 48 hours of adoption with the Affordable Housing Dispute Resolution Program (the “Program”); and

WHEREAS, the Borough of Hasbrouck Heights having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 16, 2025; and

WHEREAS, the Borough adopted a resolution by January 31, 2025 committing to a fair share number and filing a declaratory relief action within 48 hours from adoption of the resolution; and

WHEREAS, the Court entered an order on May 5, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough had its affordable housing planning consultant, Edward Snieckus, Jr. P.P., LLA, ASLA, of Burgis Associates, Inc. prepare a HEFSP to address the Borough’s affordable housing obligations under FHA II; and

WHEREAS, in accordance with the provisions of N.J.S.A. 40:55D-13 of the MLUL, the Planning Board scheduled a public hearing on the HEFSP and adopted the plan on June 4, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 6, 2025 (“Adopted HEFSP”); and

WHEREAS, Fair Share Housing Center (FSHC) having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on September 2, 2025; and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

WHEREAS, the Borough has directed its Affordable Housing Planner to prepare amendments to implement the items required by the mediation agreement and submitted a summary of these amendments to the HEFSP dated February 18, 2026; and

WHEREAS, in accordance with the provisions of N.J.S.A. 40:55D-13 of the MLUL, the Planning Board published a notice of this public hearing in the Borough's official newspaper at least ten days before the scheduled date for the public hearing and served a copy of this notice upon the clerks of all municipalities adjoining the Borough, upon the clerk of the County Planning Board, and upon the New Jersey Office of Planning Advocacy; and

WHEREAS, a copy of the HEFSP was placed on file with the Planning Board Secretary and was available for public review at least ten days before the scheduled date for the public hearing; and

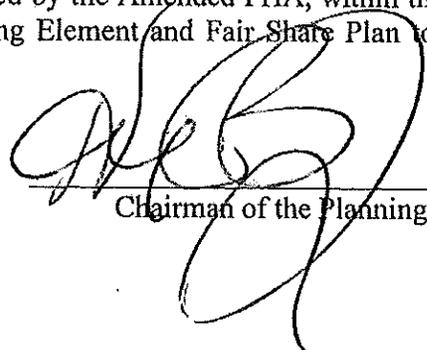
WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on March 4, 2026; and

WHEREAS, at the public hearing, Edward Snieckus, Jr. P.P., LLA, ASLA, provided professional planning testimony regarding the amendments to the HEFSP and the Board provided members of the public with the opportunity to provide their comments about the plan amendments.

WHEREAS, the Planning Board determined that the attached amendments to the Housing Element and Fair Share Plan is consistent with the goals and objectives of the current Master Plan of Hasbrouck Heights, and that adoption and implementation of the plan is in the public interest and protects public health and safety and promotes the general welfare.

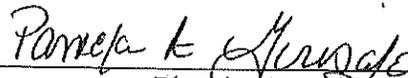
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of Hasbrouck Heights, County of Bergen, State of New Jersey, that the Planning Board hereby adopts the Housing Element and Fair Share Plan attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board hereby directs the affordable housing attorney for Hasbrouck Heights to file the duly adopted Housing Element and Fair Share Plan with the Program, an entity created by the Amended FHA, within the regulatory time period and present the duly adopted Housing Element and Fair Share Plan to Hasbrouck Heights for endorsement.

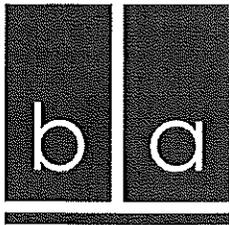

Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Hasbrouck Heights at a regular meeting held on the 4TH day of MARCH 2026.



Planning Board Secretary



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
A S S O C I A T E S , I N C .

Principals:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

MEMORANDUM

To: Borough of Hasbrouck Heights Planning Board
From: Ed Snieckus Jr. PP, LLA, ASLA
Subject: Amendments to June 4, 2025, Housing Element and Fair Share Plan (HE&FSP)
Date: February 18, 2026
BA#: 4174.08

Introduction

The following outlines the proposed amendments to the Borough of Hasbrouck Heights Housing Element and Fair Share Plan (HEFSP) dated June 4, 2025.

By way of background, the Borough previously adopted its Fourth Round HEFSP on June 4, 2025. Following the adoption of this plan and submission to the Affordable Housing Dispute Resolution Program (Program), the Borough received an objection from Fair Share Housing Center (FSHC).

Subsequently, the Borough and FSHC entered into settlement conferences with the Program to see if a mediated settlement could be reached. The Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through a mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24. The Borough of Hasbrouck Heights is hereby amending June 4, 2025, HEFSP to address the agreements contained in the above noted mediation agreement.

Accordingly, the following are the specific sections of the HEFSP that are amended, exhibiting page numbers corresponding to the June 4, 2025, HEFSP that was adopted. The specific substantive text changes are underlined or those to be omitted are shown as a ~~striketrough~~ in the text below for the Board's review and consideration in adopting as amendments to the HEFSP of the Master Plan. Due to the documents size, this memorandum permits the Board to review the specific changes and once approved, the final changes will be edited in a final document with appendices.

Amendments to 2025 Housing Element and Fair Share Plan of Master Plan

(Revisions starting on page 1: Executive Summary)

Executive Summary

The following **2025 Housing Element and Fair Share Plan (HE&FSP) of the Master Plan** has been prepared for the Borough of Hasbrouck Heights. This plan is designed to outline the manner in which the Borough will address its affordable housing obligations. Ultimately, these obligations were derived from a variety of different sources, including the Council on Affordable Housing (COAH), a prior settlement agreement with Fair Share Housing Center (FSHC), and most recently from calculations provided by the Department of Community Affairs (DCA).

These obligations are summarized as follows:

Table 1: Affordable Housing Obligation Summary

Category	Obligation
Prior Round Obligation (1987-1999)	58
Third Round Obligation (1999-2025)	286
Fourth Round Obligation (2025-2035)	143 (DCA 149)
Present Need (Rehabilitation) Obligation	8

Prior Round Obligation

The Borough was assigned a Prior Round Obligation of 58 units. The Borough's initial effort to address its Mount Laurel obligation was set forth in a substantive certification by COAH, whereby Hasbrouck Heights the Borough received a Vacant Land Adjustment generating a Realistic Development Potential (RDP) of 0. Through a municipal rehabilitation program, the Borough undertook and completed the rehabilitation of 21 units in accordance with Prior Round Regulations. The Borough had a Prior Round Unmet Need of 58 units.

The Prior Round obligation permits 15 age restricted units (maximum of 25% of 58). The Plan dedicated 15 units from the Hasbrouck Height Senior Housing Complex owned by the Housing Development Corporation to fulfill a portion of the Prior Round obligation. In addition, 5 units of credit were applied from a supportive and special needs home operated by ARC of Bergen County for a total of 20 units of credit towards the Prior Round.

Third Round Obligation

Pursuant to a Settlement Agreement signed with FSHC on September 2016, a Third-Round prospective need (new construction) fair share obligation of 408 affordable housing units was established and an indigenous need or rehabilitation requirement of 78 units for Hasbrouck Heights for the entire 1999-2025 period, which includes what is termed the gap period.

The Settlement Agreement between the Borough of Hasbrouck Heights and Fair Share Housing Center (FSHC) included a 30% reduction from FSHC's calculated combined Third Round obligation of 122 units from 408 units to 286 units. The total prospective need for 1999-2025, which includes the gap period, resulting from the Settlement Agreement, is 286 units (also inclusive of the gap period).

Hasbrouck Heights was granted a Vacant Land Adjustment (VLA) in the Third Round identifying a Realistic Development Potential (RDP) of 11 units with a remaining unmet need of 275 units. The Borough applied 2 affordable age restricted housing units at the Hasbrouck Heights Senior Housing facility on Hamilton Avenue, the 3-unit Deverux Group Home and 4 units from the re-zoning of Longview Avenue as well as 2 rental bonus credits toward meeting its 11-unit RDP (see Section 4.2). The units constructed include all of the components identified from the Third Round.

While the Borough satisfied its Third Round RDP of 11 units it has 14 age restricted units (not subject to a 25 percent cap) remaining from the 31 units at the Hasbrouck Heights Senior Complex applicable to the unmet need of 275. As a result, the Borough has a remaining Unmet Need of 261 units after credit for these units. To contribute towards addressing Unmet Need, the Borough adopted several affordable housing overlay zones (see Section 4.2 for a description) as well as a municipal-wide mandatory set-aside ordinance.

Fourth Round Obligation

Governor Murphy signed the A-40/S-50 Bill into law on March 20, 2024 after the Senate and Assembly adopted it. This legislation (FHA-2) amended the Fair Housing Act (FHA or the Act) by abolishing COAH and created a new process that involved the creation of a new entity known as the Affordable Housing Dispute Resolution Program (the Program), as well as the DCA and the Administrative Office of the Courts (AOC).

FHA-2 directed the DCA to calculate the Present Need (also referred to as the Rehabilitation obligation) and the Prospective Need (also known as the new construction obligation) for Round Four based upon the standards set forth in the Act. The DCA issued its report on October 18, 2024, and, in accordance with the Act, made clear that the obligations generated by the report were advisory only and non-binding. For Hasbrouck Heights, the DCA Report identified a Present Need of 8 and a Prospective Round Four Need of 149.

Since the DCA report is non-binding, each municipality had the opportunity to study and define why its obligations should be different based on the standards in the Act. The Borough conducted such an analysis and determined that the DCA had made oversights in the Land Capacity Factor calculation, which is part of the formula that determines fair share obligations. The Borough adopted a binding resolution on January 14, 2025, which committed to the 0-unit Present Need obligation identified by DCA, but identified a reduced Prospective Need obligation of 138 units due to the Borough's assessment of errors in DCA's report pertaining to Hasbrouck Heights Land Capacity Factor.

Ultimately, the Borough's Prospective Need obligation was established at 143 affordable units by a trial court order following a settlement issued on May 5, 2025.

The January 14, 2025 resolution of the Borough further noted that the Borough reserved the right to seek an adjustment of its Fourth Round Prospective Need number based upon a lack of vacant, developable and suitable land. Accordingly, the Borough undertook a Vacant Land Analysis through an analysis of numerous development proposals to determine if there were any changed circumstances since 2019, HE&FSP that would warrant a recalibration of Hasbrouck Heights's RDP. At this time, the Borough concludes that the aforementioned analysis did not identify any additional parcels that were not included in the Third Round Vacant Land Analysis therefore, the Third Round RDP of 11 does not change and the additional need to be addressed under the Fourth Round RDP would be effectively 0 units. This analysis is covered in more detail in Section 3.2.

The Borough prepared a 2025 Fourth Round HEFSP, adopted June 4, 2025, and endorsed July 17, 2025, and the Borough filed a resolution of participation in the Affordable Housing Dispute Resolution Program and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act"). The Borough's HEFSP received an objection submitted to the AHDRP by Fair Share Housing Center (FSHC) dated August 24, 2025. Subsequently, the Borough and FSHC entered into mediation and have agreed to amicably resolve the issues set forth in the challenge through a mediation agreement pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24. If approved will result in a compliance certification for the Borough for the Fourth Round. Borough's Fourth Round agreement with FSHC necessitates certain adjustments to the Borough's HEFSP plan. This document is revised to address these changes herein.

Accordingly, the remainder of this 2025 HE&FSP is divided into the following sections:

❖ Section 1: Introduction

The first section of the 2025 HE&FSP provides an introduction to affordable housing. It summarizes what affordable housing is, offers an overview of the history of affordable housing in the state, and explains the role of a housing element and fair share plan.

❖ Section 2: Housing Element

Section 2 contains the Housing Element for the Borough of Hasbrouck Heights. It offers an overview of its community, as well as back information regarding its population, housing, and employment characteristics. It also provides a projection of the Borough's housing stock and its employment projections.

❖ Section 3: Fair Share Obligation

Next, Section 3 provides an overview of the Borough's fair share obligation. It includes a brief history of the methodologies utilized to calculate affordable housing obligations throughout the state.

❖ Section 4: Fair Share Plan

Finally, Section 4 details the manner in which the Borough has addressed its prior obligations and how it will address its Fourth-Round prospective need obligations.

Section 1: Introduction

No changes to this section.

Section 2: Housing Element

No changes to this section.

Section 3: Fair Share Obligation

(Revision starting on page 24: Fair Share Obligation)

Section 3: Fair Share Obligation

The following section provides an overview of the Borough's fair share obligation. It includes a brief overview of the methodology utilized to calculate affordable housing obligations throughout the state.

3.1: Summary of Fair Share Obligation

On March 20, 2024, the State of New Jersey adopted a package of affordable housing bills which overhauled the Fair Housing Act (FHA).

The FHA now designates the Department of Community Affairs (DCA) as the entity responsible for calculating the state's regional needs. Specifically, NJSA 52:27D-304.2 establishes the methodology to be utilized by the DCA to determine the state's regional prospective needs of low- and moderate-income housing for the ten-year period spanning from July 1, 2025 to June 30, 2035. In summary, the projected household change for this period is estimated by establishing the household change experienced in each region between the most recent federal decennial census and the second-most recent decennial census. This household change, if positive, is then to be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region for the next ten years. This methodology resulted in a statewide prospective need of 84,698 low- and moderate-income units.

Furthermore, the DCA is also the entity responsible for calculating each municipality's present and prospective fair share obligations. However, the FHA makes clear that these calculations are advisory and that each municipality must set its own obligation number utilizing the same methodology.

On January 14, 2025, Hasbrouck Heights adopted Resolution #32 (see the Appendix) which accepted the DCA's present and identified an adjustment to the prospective fair share obligation calculations for the Borough. These obligations, including the adjustment, was settled and the Borough's Prospective Need obligation was established at 143 affordable units by a trial court order issued on May 5, 2025. The Borough's resolution also noted that the Borough reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP). This is discussed in greater detail in the next subsection.

Table 2: Summary of Fair Share Obligation-Fourth Round

Affordable Obligation	Units
Present (Rehabilitation Need) Obligation	8
Fourth Round Obligation (2025-2035)	143

Section 4: Fair Share Plan

(Revision starting on page 34: Fair Share Plan-Unmet Need)

4.4: Unmet Need

The difference between the Borough’s Prospective Need obligations and its RDP obligations is what is known as Unmet Need. Whereas the RDP obligations must be affirmatively addressed by the Borough (as outlined in Subsections 4.2 above), addressing Unmet Need involves a lower standard, as the entire Unmet Need obligation does not have to be fully satisfied by 2035.

While the Borough satisfied its Third Round RDP of 11 units, it has an unmet need of 275 from the Third Round. As identified during the review of credits to address the Third Round, 14 surplus age restricted units remain from those developed at the Hasbrouck Heights Senior Housing Complex (having 31 units total). As a result, the Borough has a remaining Unmet Need of 261 units after credit for these units. To contribute further towards addressing Unmet Need, the Borough adopted several affordable housing overlay zones (identified in Table 20) as well as a municipal-wide mandatory set-aside ordinance and development fee requirements to help address this need.

Table 3: Overlay Parcels and Surplus Credits Towards Unmet Need

Plan Component	Total Credits (possible)	Status/Surplus
Plan Surplus:		
<u>Third Round Surplus</u> - 14 units available Hasbrouck Heights Senior Housing –245 Hamilton Ave. (B 43, L 4.01), 31 affordable units	14	Developed,
Overlay Zoning:		
<u>VFW Overlay Zone-1</u> : (B 98 L 1.01), 1.29 ac., 20du/ac, 20% set-aside. 26 units total*	4	Zoned
<u>Industrial Avenue Overlay Zone</u> : (B 129, L 1, B131, L 1,4,5, and 9 & B132.01. L 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05); 13 ac @ 20du/ac, 20% set-aside. 260 units total*	39	Zoned
Total credits possible towards Unmet Need	57	(20.7%)

* Estimated from the total units per acre permitted.

The legislation requires that in addressing prior round obligations, the municipality shall “demonstrate how any sites that were not built in the prior rounds continue to present a realistic opportunity, which may include proposing changes to the zoning on the site to make its development more likely, and which may also include the dedication of municipal affordable housing trust fund dollars or other monetary or in-kind resources.”

Accordingly, the following unbuilt Unmet Need components from the Third Round Obligation are reviewed.

Map 1: Block 98 Lot 1.01, VFW Parcel



Source NJDEP-NJ GeoWeb website- lot lines are approximate.

The Veterans of Foreign Wars (VFW) parcel noted above is in the central area of the Borough near Route 17. The lot comprises a collective area of approximately 1.29 acres.

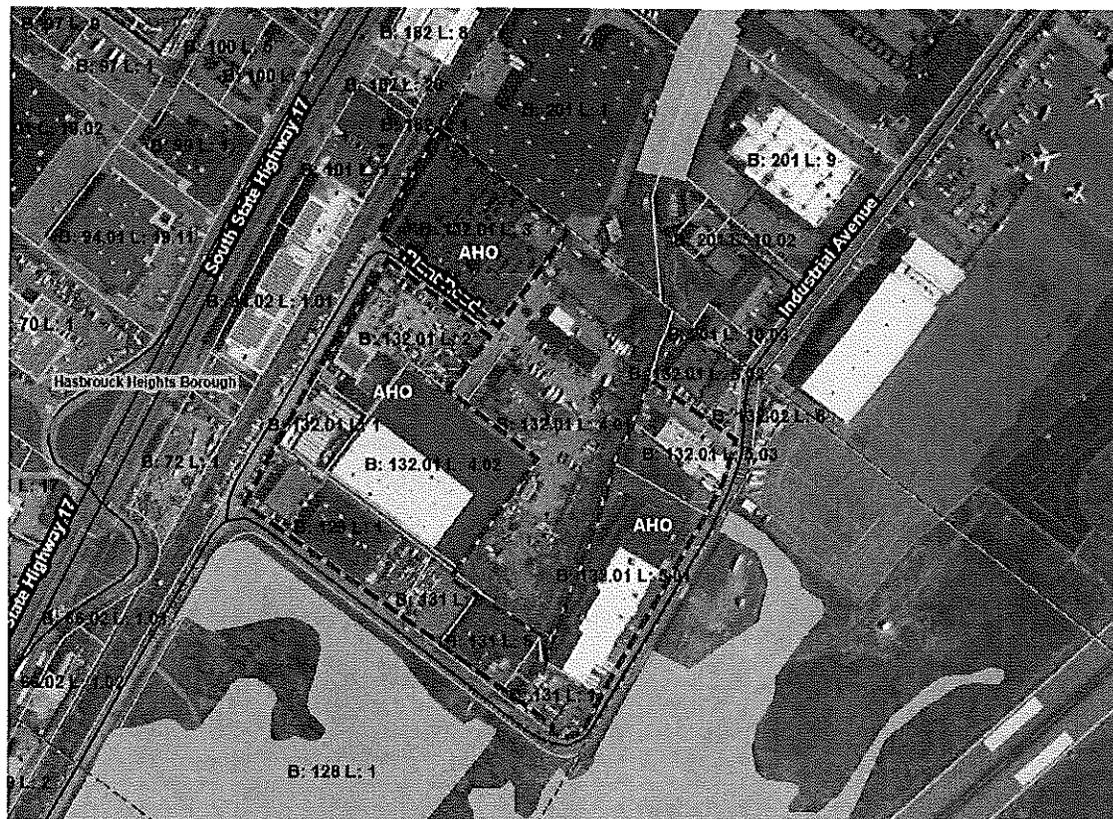
This property is located in the Affordable Housing Overlay Zone (AHO) District, the purpose of which is to create a realistic opportunity for housing that is affordable to low- and moderate-income households in a mixed-use environment. The district establishes a density of 20 units per acre with an affordable housing set-aside of either twenty percent for for-sale units or 15 percent for rental units. This existing zone density is being amended by this plan in accordance with the terms of the recent settlement agreement with FSHC. The change is to increase the zones' density for the lot noted in this area which is Block 98 Lot 1.01 to a maximum density of 21 du/ac. This amendment will also increase the affordable housing set-aside to 20 percent. This will be effectuated by a amendment to these parcels.

While this zone has not yet been constructed, the area continues to present a realistic opportunity for the production of affordable housing. Specifically, the site remains:

1. Approvable. The Borough has already approved an overlay zoning district for the site permitting inclusionary mixed use multifamily development.
2. Available. There are no known title issues which would prohibit the development of this site.
3. Developable. The site is located in a water and sewer service area

4. Suitable. The site is located in the Borough's transitional commercial area near commercial shopping centers, other multifamily uses, and numerous NJ Transit opportunities in the surrounding area.

Map 2: Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and Block 132.01, Lots 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05, Industrial Avenue Area



Source NJDEP-NJ GeoWeb website- lot lines are approximate.

The parcels noted above are in the southeasterly area of the Borough near the Borough of Moonachie and the Teterboro Airport. The 13 lots comprise a collective area of approximately 13 acres.

These properties are in the Affordable Housing Overlay (AHO) Zone District, the purpose of which is to create a realistic opportunity for housing that is affordable to low- and moderate-income households in a residential environment. The district is currently zoned at a density of 20 units per acre with an affordable housing set-aside of 20 percent for for-sale units or 15 percent for-rent units. This existing zone density is being modified by this plan in accordance with the terms of the recent settlement agreement with FSHC. The change is to increase the zone's density for the lots noted in this area which are Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and Block 132.01, Lots 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05 to a maximum density of 25 du/ac. This amendment will also increase the affordable housing set-aside to 20 percent. This will be effectuated by a amendment to these parcels.

While this component has not yet been constructed, the area continues to present a realistic opportunity for the production of affordable housing. Specifically, the site remains:

1. Approvable. The Borough has already approved an overlay zoning district for the site permitting inclusionary mixed use multifamily development.

2. Available. There are no known title issues which would prohibit the development of this site.
3. Developable. The site is located in a water and sewer service area
4. Suitable. The site is located in the Borough’s commercial area and new commercial shopping centers in adjacent Teterboro, another multifamily use, and numerous NJ Transit bus stops in the surrounding area.

Pursuant to the agreement between the Borough and FSHC, to settle the challenge to the Borough’s Fourth Round HEFSP regarding an interpretation of the minimum 25 percent requirement, in Section 1 of P.L.1995, c.231 (C.52:27D-310.1) of FHA-2, the Borough is amending the plan to include the following additional locations where the Borough’s zoning is to be changed to add to the plan to address the Fourth Round unmet need. The following summarizes the additional locations where the Borough’s zone plan will be modified by adoption of additional overlay zoning:

Table 21 Proposed New Hasbrouck Heights Affordable Housing Overlay Zones

Block & Lot	Total Area (ac)*	Maximum Density
Block 47, Lots 16, 17.01, 17.02 & 18	0.69	20 du/ac
Block 77.03, Lot 15	0.45	20 du/ac
Block 200.01, Lot 11	1.196	25 du/ac

* From Borough Tax records

Further the following programs also contribute to the Unmet Need requirements:

1. **Mandatory Set-Aside Ordinance.** Additionally, in order to capture future affordable housing opportunities in the Borough and address the remainder of Hasbrouck Height’s Unmet Need, the Borough has to adopted a Borough-wide Mandatory Set-Aside Ordinance, which requires that any site that is developed with five or more new multi-family or single-family attached dwelling units shall provide an affordable housing set-aside at a rate of 20 percent. This requirement will ensure that new multi-family or single-family attached development in Hasbrouck heights will provide its fair share of affordable units and assist with the Borough’s continuous efforts to address its affordable housing obligation. The Borough will not, however, be under any obligation to grant subdivision and site plan approvals, rezonings, use variances, redevelopment or rehabilitation designations, and/or any other approvals for any such construction and development applications will be required to otherwise conform to the Borough’s zoning requirements. A copy of the Mandatory Set-Aside Ordinance is included in the Appendix of this plan. Any affordable units created pursuant to this ordinance will be applied toward Hasbrouck Height’s Unmet Need.
2. **Development Fee Ordinance.** Lastly, as part of its 2016 Settlement Agreement with FSHC and 2019 HE&FSP, the Borough maintained its Development Fee Ordinance, set forth at Chapter 51 of the Borough Code, and its non-residential development fee of 2.5 percent of equalized assessed value, consistent with the Statewide Non-Residential Development Fee Act, and its residential development fee at 1.5 percent of equalized assessed value. The Borough will continue to implement its Development Fee Ordinance, as adopted, through the Fourth Round, the funds from which will be applied directly toward implementation of Hasbrouck Heights’s Fourth Round Housing Element and Fair Share Plan.

(Revision starting page 42-Appendices) The following are the changes to the appendices included in the 2025 Housing Element and Fair Share Plan.

Appendices

A	January Resolution, Fourth Round Settlement Agreement,
B	Third-Round Documents
1	Hasbrouck Heights Compliance Rpt 9-6-19
2	Third Round Final Judgement of Compliance and Repose
3	Development Fee Regulations
4	Hasbrouck Heights Affordable Housing Overlay Zone
5	Affordable Housing Ordinance Chapter 79 (Pending Amendment Adoption and to be Supplemented)
6	Hasbrouck Heights-Supplemental ZM Ord-2441_5-14-19
7	1 Boulevard Resolution of Approval
C	Fourth-Round Resolutions and Reporting
1	Court Order Approving Mediated Settlement for Fourth Round Need
2	Resolution authorizing the current obligations of the Borough of Hasbrouck Heights regarding Round 4 affordable housing
3	Resolution No. 64_Municipal Housing Liaison for Hasbrouck Heights
D	Fourth-Round Spending Plan
E	Draft Resolution of Intent to Bond for Trust Fund Shortfall
F	Draft Resolution of Mayor and Council Endorsing the HE&FSP
G	AHO-1 AHO-2, AHO-3 and AHO-4 Hasbrouck Heights Affordable Housing Overlay Zone Amendments (Pending Amendment Adoption and to be Supplemented)
H	2026 Spending Plan-Amended

Appendix G: AHO-1 AHO-2, AHO-3 and AHO-4 Hasbrouck Heights Affordable Housing Overlay Zone Amendments (Pending Amendment Adoption and to be Supplemented)

Appendix H: 2026 Spending Plan-Amended

May 15, 2025; Revised January 16, 2026
Borough of Hasbrouck Heights
Affordable Housing Trust Fund Spending Plan

INTRODUCTION

The Borough of Hasbrouck Heights (hereinafter the "Borough"), Bergen County, has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Amended Fair Housing Act (N.J.S.A. 52:27D-301) and the proposed new Fair Housing Act Rules promulgated by the New Jersey Department of Community Affairs (DCA) (N.J.A.C. 5:99) and the regulations of the Council on Affordable Housing ("COAH"), N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:91 Second Round and N.J.A.C. 5:97-8.10 Third Round procedural and substantive regulations. The Borough began collecting development fees in 2005 to be put towards their affordable housing trust fund.

As of **May 15, 2025**, the Borough has a balance of **\$5,389.20** in its Affordable Housing Trust fund. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:99 and N.J.A.C. 5:93-1 et seq., N.J.A.C. 5:91 and N.J.A.C. 5:97-8.10 as described in the sections that follow as applicable.

1. REVENUES FOR CERTIFICATION PERIOD

It is anticipated that during the period of January 1, 2025 through June 30, 2035, which encompasses the period that the Borough will have a Fourth Round Judgment of Compliance and Repose (hereinafter "Fourth Round JOR"), the Borough will add an additional **\$119,000** to its Affordable Housing Trust Fund. This is detailed below.

- (a) Development fees: The Borough does anticipate non-residential development fees to be generated between January 1, 2025 and June 30, 2035. The Borough does anticipate collection of residential development fees. This figure assumes that, on average, the Borough will collect approximately **\$12,000** in development fees per year during the remainder of the Third Round and throughout the Fourth Round.

- (b) Payment in lieu (PIL): The Borough does not currently anticipate the contribution of any payments in lieu toward the municipal Affordable Housing Trust Fund during the period of its Fourth Round JOR.

- (c) Other Funds: The Borough does not currently anticipate the contribution of any other funds toward the municipal Affordable Housing Trust Fund during the period of its Fourth Round JOR.

- (d) Projected interest: It is estimated that the Borough will collect approximately **\$2,400** in total interest between January 1, 2025, through June 30, 2035. This figure assumes that, on average, the Borough will collect approximately \$240 in interest per year throughout the Fourth Round.

SOURCE OF FUNDS	PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND JULY 1, 2025 THROUGH JUNE 30, 2035											Total	
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	1/1/2035- 6/30/2035		
(a) Development fees:	\$5,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$6,000	\$119,000
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(d) Interest	\$120	\$240	\$240	\$240	\$240	\$240	\$240	\$240	\$240	\$240	\$240	\$120	\$2,400
Total	\$5,120	\$ 12,240	\$ 6,120	\$ 121,400									

In sum, the Borough projects a total of \$121,400 in revenue to be collected between January 1, 2025 and June 30, 2035. This projected amount, when added to current trust fund balance of \$5,389.20, results in a total anticipated trust fund balance of \$126,789.20 available to fund and administer the Borough’s affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough:

- (a) Collection of development fee revenues: Collection of development fee revenues shall be consistent with the Borough's development fee ordinance for both residential and non-residential developments in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Amended Fair Housing Act (FHA-2) (N.J.S.A. 52:27D-301) and the proposed new Fair Housing Act Rules promulgated by the New Jersey Department of Community Affairs (DCA) (N.J.A.C. 5:99).
- (b) Distribution of development fee revenues: The Joint Land Use Board adopts and forwards a resolution to the Council recommending the expenditure of development fee revenues as set forth in this spending plan. The Council reviews the request for consistency with the spending plan and adopts the recommendation by resolution. The release of funds requires adoption of the governing body resolution in accordance with the spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

- (a) Rehabilitation. The Borough has a rehabilitation obligation of 8 units. The Borough has and will continue to participate in the Bergen County Home Improvement Program (BCHIP), which utilizes Community Development Block Grant (CDBG) funds to rehabilitate income qualified units in the Borough. Since this BCHIP does not provide funding to rental units, the Borough will contract with a professional Affordable Housing Administrator to administer a Hasbrouck Heights municipal Home Improvement Program – which will be open to both owners and renters –and will utilize funds from the Borough's Affordable Housing Trust Fund towards this program.

The funding requirement pertaining to rehabilitation in N.J.A.C. 5:97-6.2(b)3. states "municipalities shall provide sufficient dollars to fund no less than half of the municipal rehabilitation component by the mid-point of substantive certification". To address the rehabilitation obligation, the Borough will continue to participate in BCHIP program for ownership units and fund a program for rentals and ownership in accordance with the rules noted above. The Borough will set aside supplemental funding for 4 of the 8-unit requirement by the end of year 2030 initially and continue

to monitor interest in this rehabilitation program in the allocation of funding from the Trust Fund. The Borough allocates expenditure of \$9,500 per unit or a total of \$38,000 for the 4 units by 2030. An additional \$38,151 will be allocated as collected over the remaining years up to a total projected of \$76,151 towards this program. This program shall be reassessed annually to identify if sufficient funds are available to possibly increase the amount of funding available for this program.

(b) Affordability Assistance. In prior spending plans, N.J.A.C. 5:93-8.16(c), required an allocation for affordability assistance, while the FHA-2 and N.J.A.C. 5:99-2.5, the spending plan is no longer required to set aside a minimum amount of funding for this program. Notwithstanding the Borough has entered into an agreement to amend the Spending Plan to include a 30 percent allocation of the funds received in this fund to provide for affordability assistance. "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. Should revenue be greater than expected the Borough may seek to implement greater funds to this program to assist affordability towards affordable housing options.

AFFORDABILITY ASSISTANCE

Actual development fees + interest through 5/15/25		\$ 5,000.00
Development fees + interest projected 2025-2035	+	\$121,400.00
Less housing activity expenditures through 5/15/25	-	\$0
Less housing activity expenditures 5/15/25	-	\$0
Total	=	\$126,400.00
30 percent requirement	x 0.30 =	\$25,280.00
Less affordability assistance expenditures through 5/15/25	-	0
PROJECTED MINIMUM Affordability Assistance Requirement 2025-2035	=	\$25,280.00
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 2025-2035	÷ 3 =	\$8,426.67

(c) Administrative Expenses. Per N.J.A.C. 5:99-2.4(a), no more than 20% of all affordable housing trust funds shall be expended on administration. The Borough projects that a maximum of **\$24,877** is estimated will be available from the affordable housing trust fund to be used for administrative purposes through June 30, 2035. Projected administrative expenditures, subject to the 20% cap, include the payment for the salaries and benefits for municipal employees and consultant fees related to costs as set forth at N.J.A.C. 5:99-2.4(b), (c) and (d).

Actual development fees + interest through 5/15/25		\$ 5,389.20
Projected Development fees + interest 6/1/25 through 6/30/35	+	\$121,400.00
Total	=	\$126,789.20
20 percent requirement	x 0.20 =	\$25,357.20
Less administrative expenditures through 5/15/25	-	\$0.00
PROJECTED MAXIMUM Available for Administrative Expenses 6/1/25 through 6/30/35	=	\$25,357.20

(d) Other Emergent Housing Opportunities. The Borough will reserve future excess remaining trust fund balance, for other emergent opportunities to create affordable housing that may arise during the Fourth Round. The Borough shall seek approval for any emergent affordable housing opportunities not included in the Borough's fair share plan in accordance with N.J.A.C. 5:99-4.1.

4. EXPENDITURE SCHEDULE

The Borough intends to use affordable housing trust fund revenues for the creation of housing units, affordability assistance, and administration. Where applicable, the funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

PROJECTS / PROGRAMS	PROJECTED EXPENDITURES – AFFORDABLE HOUSING TRUST FUND JANUARY 1, 2025 THROUGH JUNE 30, 2035											1/1/35 to 6/30/25	Total	
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035			
Rehabilitation	\$0.00	\$0.00	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$0.00	\$76,151.40
Affordability Assistance	\$0.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$2,528.00	\$25,280.00
Administration	\$0.00	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$2,535.78	\$25,357.80
Other Emergent Opportunities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Allocated	\$0.00	\$5,063.80	\$14,563.8	\$14,715.20	\$5,063.80	\$126,789.20								

5. EXCESS OR SHORTFALL OF FUNDS

In the event of any expected or unexpected shortfall of funds necessary to implement the Fair Share Plan, the Borough will handle the shortfall of funds through an alternative funding source to be identified by the Borough and/or by adopting a resolution with an intent to bond. In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be dedicated toward the Borough's additional affordability assistance and/or any other emergent affordable housing opportunities that may arise during the Fourth Round.

6. SUMMARY

The Borough intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:99 and consistent with the housing programs outlined in the Borough's Housing Element and Fair Share Plan.

The Borough has a balance of **\$5,389.20** as of May 15, 2025 and anticipates an additional **\$121,400** in revenues through June 30, 2035 for a total of **\$126,789.20**. During the period of the Borough's Fourth Round JOR through June 30, 2035, the Borough agrees to set aside **\$76,151.40** towards rehabilitation assistance, **\$25,280** towards affordability assistance and **\$25,357** towards administrative costs, totaling **\$126,789.20** in anticipated expenditures.

Any shortfall of funds will be offset by an alternative funding source to be identified by the Borough. In the unlikely event that no alternative funding is available, the Borough will bond to provide the necessary funding. The Borough will dedicate any excess funds or remaining balance toward its affordability assistance and/or any other emergent affordable housing opportunities that may arise during the Fourth Round.

SPENDING PLAN SUMMARY	
Balance as of May 15, 2025	\$5,389.20
PROJECTED REVENUE THROUGH 6/30/35	
Development fees	+ \$119,000
Payments in lieu of construction	+ \$0.00
Other funds	+ \$0.00
Interest	+ \$2,400.00
SUBTOTAL REVENUE	= \$121,400.00
TOTAL REVENUE	= \$126,789.20
EXPENDITURES	
Rehabilitation Program	- \$76,151.40
Affordability Assistance	- \$25,280.00
Administration	- \$25,357.80
Other Emergent Opportunities	
TOTAL PROJECTED EXPENDITURES	= \$126,789.20
REMAINING BALANCE	= \$0.00
Projected Excess Funds or Remaining Balance Reserved for Affordability Assistance and/or Additional Affordable Housing Activity Necessary to Address Third Round obligation.	= \$0.00

BOROUGH OF HASBROUCK HEIGHTS

RESOLUTION NO. 81

DATED: March 10, 2026

**RESOLUTION ENDORSING THE AMENDED HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, on or about December 10, 2025, the Borough of Hasbrouck Heights entered into a settlement agreement in an action captioned In the Matter of the Application of Borough of Hasbrouck Heights, County of Bergen, Docket No. BER-L-360-25 ("Action") with the Fair Share Housing Center, ("Settlement Agreement"); and

WHEREAS, on March 4, 2026, the Land Use Board of the Borough of Hasbrouck Heights, Bergen County, State of New Jersey, adopted a Housing Element and Fair Share Plan, which addresses the Borough's Mount Laurel obligations as delineated in the court-approved Settlement Agreement; and

WHEREAS, the Borough of Hasbrouck Heights remains committed to complying with its constitutional Mount Laurel obligations by voluntarily providing its "fair share" of affordable housing.

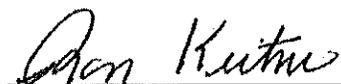
NOW THEREFORE BE IT RESOLVED by the Mayor and Council, Borough of Hasbrouck Heights, Bergen County, New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Land Use Board of the Borough of Hasbrouck Heights on March 4, 2026; and

BE IT FURTHER RESOLVED, that the Mayor and Council, Borough of Hasbrouck Heights, Bergen County, New Jersey, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. hereby authorizes its professionals to immediately file the adopted and endorsed amended Housing Element and Fair Share Plan and all other relevant documents with the Court; and

BE IT FURTHER RESOLVED, that the Mayor and Council, Borough of Hasbrouck Heights, Bergen County, New Jersey, hereby authorizes its professionals to take any and all actions reasonable and necessary to secure approval of the Borough's Housing Element and Fair Share Plan and to maintain the Borough's immunity from any Mount Laurel lawsuits; and

BE IT FURTHER RESOLVED, that, upon seeking approval of its Housing Element and Fair Share Plan, all known interested parties shall receive notice of the Borough's intent; and

BE IT FURTHER RESOLVED, that that notice of the Borough's application for approval of its Housing Element and Fair Share Plan shall be published in a newspaper of regional circulation and the Borough shall otherwise provide all notices the Court deems appropriate as it determines whether the Housing Element and Fair Share Plan satisfies the Borough's affordable housing responsibilities under applicable laws. Said notice shall give the public sufficient time to review the Borough's Compliance Plan and offer any comments that the individual or entity may deem appropriate.



Ron Kistner
Mayor

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
bickels			✓				
McClure	✓		✓				
Blug			✓				
Sodora		✓	✓				
bampen			✓				
brum			✓				

I, Anne Michelle Sery, Deputy Municipal Clerk of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, do hereby certify that the foregoing Resolution is a certified copy of Resolution No. 81 adopted by the Governing Body on March 10, 2026.



Anne Michelle Sery
Deputy Municipal Clerk

BOROUGH OF HASBROUCK HEIGHTS

RESOLUTION NO. 82

DATED: March 10, 2026

**RESOLUTION OF THE BOROUGH MAYOR AND COUNCIL OF INTENT TO
APPROPRIATE FUNDS OR BONDS FOR AFFORDABLE HOUSING IN THE
EVENT OF A FUNDING SHORTFALL**

WHEREAS, the Borough Council of the Borough of Hasbrouck Heights, Bergen County, State of New Jersey have reviewed and approved the 2026 Amended Housing Element and Fair Share Plan and 2026 Spending Plan; and

WHEREAS, on March 10, 2026 the Borough of Hasbrouck Heights Land Use Board adopted a Housing Element and Fair Share Plan, which fully addressed the Borough's Rehabilitation Need, Prior Round and Third Round "Fair Share" obligations as stipulated in the Court approved Settlement Agreement; and

WHEREAS, the Spending Plan allocates funds for a rehabilitation program to be administered by the County of Bergen construction programs, affordability assistance, and affordable housing administration; and

WHEREAS, the Borough anticipates that the funding will come from developer contributions paid into the Borough's Affordable Housing Trust Fund and other affordable housing funding programs; and

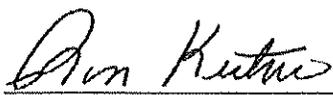
WHEREAS, in the event that the above funding source prove inadequate to complete the affordable housing programs included in the Borough's Housing Element and Fair Share Plan and Spending Plan, the Borough shall provide sufficient funding to address any shortfalls.

NOW THEREFORE BE IT RESOLVED by the Mayor Council of the Borough of Hasbrouck Heights, Bergen County, that the Borough does hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

BE IT FURTHER RESOLVED that, upon written notification by the Court after a bona fide, diligent and good faith effort to exhaust potential funding sources including the Borough's Housing Trust Fund, there is a finding that inadequate funding exists to complete the rehabilitation and affordable housing compliance techniques included in the Borough of Hasbrouck Heights's Court-certified Housing Element and Fair Share Plan, the Borough of Hasbrouck Heights agrees to appropriate funds or authorize the issuance of debt to fund to assure the economic feasibility of the programs as noted herein; and

BE IT FURTHER RESOLVED that the Borough may repay debt through future collections of development fees, as such funds become available.

BE IT FURTHER RESOLVED that the Mayor, Borough Administrator, and Borough Clerk are authorized and designated to execute any and all necessary documents in order to implement the intent of this Resolution.



 Ron Kistner
 Mayor

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
Sickels			✓				
McGuire			✓				
Bing	✓		✓				
Sodora		✓	✓				
Sampen			✓				
Blum			✓				

I, Anne Michelle Sery, Deputy Municipal Clerk of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, do hereby certify that the foregoing Resolution is a certified copy of Resolution No. 82 adopted by the Governing Body on March 10, 2026.



 Anne Michelle Sery
 Deputy Municipal Clerk

BOROUGH OF HASBROUCK HEIGHTS

RESOLUTION NO. 83

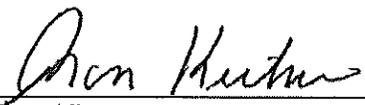
DATED: March 10, 2026

**RESOLUTION ADOPTING THE AFFIRMATIVE
FAIR HOUSING MARKETING PLAN**

WHEREAS, there is a need on the part of the Borough of Hasbrouck Heights to adopt an Affirmative Fair Housing Marketing Plan (the "Plan"); and

WHEREAS, the Borough of Hasbrouck Heights, by adoption of this resolution wishes to adopt the Plan attached hereto and made a part of this Resolution; and

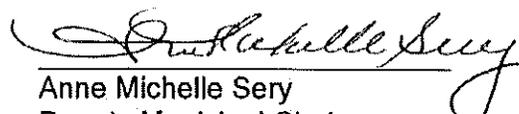
NOW THEREFORE BE IT RESOLVED by the Mayor Council of the Borough of Hasbrouck Heights, Bergen County, that the attached Affirmative Fair Housing Marketing Plan be and hereby is adopted.



 Ron Kistner
 Mayor

COUNCIL	MOTION	SECOND	AYE	NAV	ABSTAIN	PRESENT	ABSENT
Sickels			✓				
McLure			✓				
Blig	✓		✓				
Soora		✓	✓				
Sampen			✓				
Blum			✓				

I, Anne Michelle Sery, Deputy Municipal Clerk of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, do hereby certify that the foregoing Resolution is a certified copy of Resolution No. 83 adopted by the Governing Body on March 10, 2026.



 Anne Michelle Sery
 Deputy Municipal Clerk

BOROUGH OF HASBROUCK HEIGHTS

RESOLUTION NO. 84

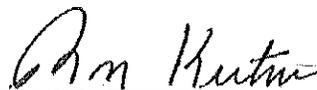
DATED: March 10, 2026

RESOLUTION AUTHORIZING THE SOLITATION OF PROPOSAL FOR AN ADMINISTRATIVE AGENT

WHEREAS, there is a need on the part of the Borough of Hasbrouck Heights to engage the services of an Administrative Agent for the purpose of implementing the Borough's rental rehabilitation program, and related programs; and

WHEREAS, the Borough of Hasbrouck Heights wishes to authorize the solicitation of proposals for such purpose; and

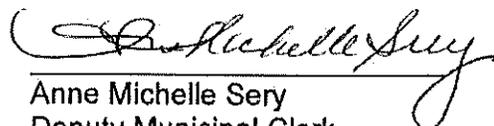
NOW THEREFORE BE IT RESOLVED by the Mayor Council of the Borough of Hasbrouck Heights, Bergen County, that the Mayor, the Borough Administrator, the Chief Financial Officer, the Borough Attorney and the Borough's Affordable Housing Attorney be and hereby are authorized to solicit proposals for the appointment of an Administrative Agent.



Ron Kistner
Mayor

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
Sickels			✓				
McGuire	✓		✓				
Bing			✓				
Socora		✓	✓				
Sampen			✓				
Blum							

I, Anne Michelle Sery, Deputy Municipal Clerk of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, do hereby certify that the foregoing Resolution is a certified copy of Resolution No. 84 adopted by the Governing Body on March 10, 2026.



Anne Michelle Sery
Deputy Municipal Clerk

**BOROUGH OF HASBROUCK HEIGHTS
COUNTY OF BERGEN**

ORDINANCE NO. 2600

AN ORDINANCE IMPLEMENTING THE BOROUGH'S FOURTH ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A MEDIATION AGREEMENT REACHED BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS AND POLICIES AND TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS, CHAPTER 79 "AFFORDABLE HOUSING" AND CHAPTER 275 "ZONING" TO AMEND THE FOLLOWING PARTICULARS OF THE CHAPTERS.

WHEREAS, the Borough of Hasbrouck Heights (the "Borough" or "Hasbrouck Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act") on January 31, 2025; and

WHEREAS, the Court entered an order on May 5, 2025, setting the Borough's Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having adopted its HEFSP on June 4, 2025 ("Adopted HEFSP"); and

WHEREAS, Fair Share Housing Center ("FSHC") filed challenges to the Borough's application for approval of its HEFSP, with mediation acuminating in FSHC and the Borough putting a settlement on record and approved by Judge Stephan Hansbury JSC dated January 9, 2026; and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

WHEREAS, the Borough is committed to fulfilling its agreement with FSHC and implementing its Housing Element and Fair Share Plan as amended.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hasbrouck Heights, County of Bergen, and State of New Jersey that Chapter 79 Affordable Housing of the Borough of Hasbrouck Heights is and shall be amended in its entirety and Chapter 275-12K of the General Regulations is amended with the particulars noted as follows:

SECTION ONE

**Chapter 79
Affordable Housing**

§ 79-1. Affordable housing obligation.

- A. This section of the Code establishes regulations regarding the very low-, low- and moderate-income housing units in Borough of Hasbrouck Heights. These regulations are intended to be consistent with the amended Fair Housing Act, N.J.S.A. 52:27D-301 to -329 P.L 2024, Chapter 2, 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") as well as any amendments that have been or may be adopted thereto.

- B. 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.
- C. The Borough of Hasbrouck Heights 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.
- D. 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.
- E. Applicability
- (1) 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.
 - (2) 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.
 - (3) 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 pursuant to the current Low Income Housing Tax Credit program, a 15-year extended-use period, for a total of not less than 45 years.
- F. Monitoring and Reporting Requirements
- (1) 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:
 - (a) 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>.
 - (b) On or before February 15 of each year, the municipality shall provide annual reporting of 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.
 - (c) 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.

§ 79-2. 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 -163.

“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 on the deed restriction imposed at the closing of the first purchaser of the affordable unit 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 housing element and 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 may be 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 exclusionary zoning litigation including 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.

“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” mean 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, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. 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.

§ 81-3. New Construction.

A. New Construction (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.). Per the definition of "New Construction," this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

- (1) The following requirements 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.
- (2) 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

(3) Design. The following design requirements apply to affordable housing developments, excluding Prior Round Units.

(a) Design of 100 percent affordable developments:

- [1] 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.
- [2] Each bedroom in each restricted unit must have at least one window.
- [3] Restricted units must include adequate air conditioning and heating.

(b) Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to Prior Round Units, unless stated otherwise.

- [1] 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.
- [2] 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.
- [3] 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.
- [4] 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.

- [5] 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.
 - [6] Each bedroom in each restricted unit must have at least one window.
 - [7] Restricted units must be of the same unit type as market-rate units within the same building.
 - [8] 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.
- (c) 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:
- [1] 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.
 - [2] 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.
 - [3] 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, town homes, 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.
 - [4] 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.
 - [5] 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).
 - [6] 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.
 - [7] Each bedroom in each restricted unit must have at least one window; and
 - [8] Restricted units must include adequate air conditioning and heating.

B. 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.A.C 5:80-26.13(e).

C. 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 down to the nearest whole number shall be very low- or low-income units.

- (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:
 - (a) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - (b) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - (c) The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded up, of the total number of low- and moderate-income units.
 - (d) At least 30% of all low- and moderate-income units, rounded down shall be two-bedroom units.
 - (e) At least 20% of all low- and moderate-income units, rounded down shall be three-bedroom units.
 - (f) 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.

D. 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:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel, however an interior accessible route of travel shall not be required between stories;
 - (d) 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;
 - (e) 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
 - (f) An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-31 1a 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:
 - [1] 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.

[2] 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.

[3] 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.

[4] 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.

[5] 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.

(g) 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.

E. Regional Income Limits.

- (1) Administrative Agents shall use the current regional income limits most recently established by the DCA for the purpose of pricing affordable units and determining income eligibility of households.
- (2) 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.
- (3) 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.

F. Maximum Initial Rents and Sales Prices.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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 and 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.

- (7) 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:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (8) 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:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) 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.
- (9) 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.
- (10) 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.
- (11) 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.

§ 79-5. 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:
 - (a) If 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.
 - (b) 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.
 - (c) Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - (7) At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.
- C. 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:
 - (a) Bedroom distribution (N.J.A.C. 5:80-26.4).
 - (b) Low/moderate income split (N.J.A.C. 5:80-26.4).
 - (6) Affordability average (N.J.A.C. 5:80-26.4); however:
 - (a) 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

(b) 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.

D. 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 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), including the following:

(a) 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.

(b) 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;

(c) 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.

(d) 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.

(e) 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.

(f) The deed restriction for the extended control period shall be filed with the County Clerk.

E. 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:

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

(b) The deed restriction may be on the facility, rather than individual apartments or rooms;

(c) 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.

F. 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:
- (a) Units are 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).
 - (b) Units 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.
 - (c) 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.
 - (d) Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - (e) Occupancy shall not be restricted to youth under 18 years of age.
 - (f) 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.
 - (g) The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - [1] 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;
 - [2] Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - (h) 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.
 - (i) 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.
 - (j) The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - [1] An Affirmative Marketing Plan in accordance with D1 above; and
 - [2] 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.
 - (k) The sponsor/owner shall complete annual monitoring as directed by the MHL.

§ 79-6. Condominium and homeowners' association fees.

- A. For any affordable housing unit that is part of a condominium association and/or homeowners' association, the master deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee..

§ 79-7. Purpose.

- A. For any affordable housing unit that is part of a condominium association and/or homeowners' association, the master deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ 79-8. 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 ____ and is required to be followed throughout the period of deed restriction.
- C. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - (1) Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - (2) There shall be a regional preference for all households that live and/or work in Housing Region I comprising Bergen, Hudson, Passaic and Sussex Counties.
 - (3) Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
- 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. 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, except for Affirmative Marketing for resales.

§ 79-9. 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.

§ 79-10. 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:
- B. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
- C. Provide a bedroom for every two adult occupants;
- D. 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
- E. Avoid placing a one-person household into a unit with more than one bedroom.

§ 79-11. 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.

§ 79-12. 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.

- (a) 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.
 - (b) 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:
- (a) those that render the unit suitable for a larger household or the addition of a bathroom.
 - (b) 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.

§ 79-13. 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.

§ 79-14. 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).
- C. Control Periods for Restricted Rental Units.
 - (1) 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 amended December 20, 2004, 36 N.J.R. 5713 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
 - (2) 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.
 - (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) 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.

- (7) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
- (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit;
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - (d) 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.

§ 79-15. 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.

§ 79-16. 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.

§ 79-17. 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 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.

§ 79-18. 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 municipality.
- 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. 5:99-7 and 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:
 - (a) 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.
 - (b) 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.
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households.
 - (b) 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;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, 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.
 - (e) 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.
 - (f) Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
- E. Affordability controls.
 - (1) 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.
 - (2) 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.

- (3) Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
- (4) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.

F. Records retention.

- (1) 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.
- (2) 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.

G. Resales and re-rentals.

- (1) 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.
- (2) 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.

H. Processing requests from unit owners.

- (1) 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.
- (2) 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.
- (3) Notifying the municipality of an owner's intent to sell a restricted unit.
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

I. Enforcement.

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
- (5) 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.

J. 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.

K. Responsibilities of The Owner of a development containing affordable units.

- (1) The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the Administrative Agent:
 - (a) 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.

- (b) The total number of units in the project and the number of affordable units.
 - (c) 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.
 - (d) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - (e) A projected construction schedule.
 - (f) The location of any common areas and elevators.
 - (g) 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.
- (2) 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:
- (a) 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.
 - (b) Provide to the Administrative Agent a description of any applicable fees.
 - (c) Provide to the Administrative Agent a description of the types of utilities and which utilities will be included in the rent.
 - (d) 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.
 - (e) Provide to the Administrative Agent a proposed form of lease for any rental units.
 - (f) Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - (g) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
- (3) 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:
- (a) Proposed pricing for all units, including any purchaser options and add-on items.
 - (b) Condominium or homeowner association fees and any other applicable fees.
 - (c) Estimated real property taxes.
 - (d) Sewer, water, trash disposal, and any other utility assessments.
 - (e) Flood insurance requirement, if applicable.
 - (f) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§ 79-19. 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:
 - (a) A fine of not more than \$500.00 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;
 - (b) 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 municipal Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) 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 New Jersey Housing Resource Center 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.

§ 79-20. Development Fees

- A. Purpose. 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.

§ 79-21. Development Fees Basic Requirements

- A. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- B. The municipality shall not spend development fees until the court has approved a plan for spending such fees. Approval of a Round Three Spending Plan shall suffice to satisfy this requirement until such time as a Round Four Spending Plan or subsequent amendments is/are approved.

§ 79-22. Residential Development Fees

A. Imposed fees

- (1) 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.
- (2) 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.

B. Eligible exactions, ineligible exactions and exemptions for residential development

- (1) 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.
- (2) 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.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

§ 79-23. Non-Residential Development Fees**A. Imposition of fees**

- (1) 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.
- (2) 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.
- (3) Development fees shall be imposed and collected when an existing non-residential 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.

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

- (1) 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.
- (2) 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.

C. 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.**D. 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.****E. 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.****§ 79-24. Collection Procedures**

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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.

- F. 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.
- G. 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).
- H. 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.

§ 79-25. Appeal of development fees

- A. 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.
- B. 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.

§ 79-26. Affordable Housing Trust Fund

- A. 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.
- B. 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:
 - (1) 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;
 - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- C. 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.
- D. 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:
 - (1) Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - (2) 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;
 - (3) Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - (4) Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - (5) Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - (6) Revocation of compliance certification or a judgment of compliance and repose;
 - (7) 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;
 - (8) Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- E. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

§ 79-27. Use of Funds

- A. 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.

- B. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- C. 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.
 - (1) 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.
 - (2) 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.
- D. 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.

§ 79-28. Monitoring

- A. 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.

§ 79-29. Ongoing Collection of Fees

- A. 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.
- B. 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).

§ 79-30. Emergent Affordable Housing Opportunities.

- A. 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 TWO.

Amend section 275-12K in its entirety with:

- K. Borough-wide mandatory set-aside.

- (1) A development, other than single-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%.
- (2) Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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 set-aside shall round up to ensure that at least 20 percent of the units are affordable.

SECTION THREE.

All Ordinances of the Borough of Hasbrouck Heights which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

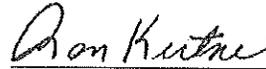
SECTION FOUR.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION FIVE.

Effective Date:

Approved this 10th day of March 2026



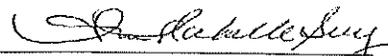
Ron Kistner, Mayor

Introduced: February 10, 2026

Adopted: March 10, 2026

COUSCIL	MOION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
Sickels			✓				
McClure		✓	✓				
Hing			✓				
Sobora	✓		✓				
Sampson			✓				
Blum			✓				

The foregoing Ordinance No. 2600 was finally adopted by the Borough Council at a meeting held on March 10, 2026, and approved by the Mayor on the same date.



Anne Michelle Sery, Deputy Municipal Clerk

**BOROUGH OF HASBROUCK HEIGHTS
COUNTY OF BERGEN**

ORDINANCE NO. 2601

AN ORDINANCE IMPLEMENTING THE BOROUGH'S FOURTH ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A MEDIATION AGREEMENT REACHED BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING AND TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS, CHAPTER 275 "ZONING" TO AMEND THE FOLLOWING HASBROUCK HEIGHTS AFFORDABLE HOUSING OVERLAY ZONE (AHO-1).

WHEREAS, the Borough of Hasbrouck Heights (the "Borough" or "Hasbrouck Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act") on January 16, 2025; and

WHEREAS, the Court entered an order on May 5, 2025, setting the Borough's Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 6, 2025 ("Adopted HEFSP"); and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hasbrouck Heights, County of Bergen, and State of New Jersey that Chapter 275 Zoning of the 1990 Zoning Ordinance of the Borough of Hasbrouck Heights is and shall be amended in the following particulars only:

Section 1. Section 275-7 Districts designated is hereby amended to add the following Zone Designation:

Zone Designation Zone Description

AHO-1 Hasbrouck Heights Affordable Housing Overlay Zone.

Section 2. Amend Section 275-12.1 Hasbrouck Heights Affordable Housing Overlay Zone is hereby amended with following particulars only (deleted sections are noted by strikethroughs, new sections are bold):

§275-12.1 AHO-1 Hasbrouck Heights Affordable Housing Overlay Zone-1

A. The Hasbrouck Heights Affordable Housing Overlay Zone-1 district is hereby established.

D. The following are the principal permitted uses;

- (1) Multifamily residential uses, where a ~~15%~~ **20%** affordable residential rental component set-aside or a ~~20%~~ **affordable** for sale component set-aside is provided in accordance with the applicable Borough ordinances. Multifamily residential uses shall include townhouses, duplex structures and apartments. **The developer/property owner shall round the fractional number of affordable units upward to provide one additional whole unit;**

E. The affordable housing component shall be compliant with Ch. 79 (Affordable Housing) and the UHAC rules (N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:99.

H. Bulk regulations.

(1) The bulk regulations for the Hasbrouck Heights Affordable Housing Overlay Zone multifamily residential use are as follows:

- (j) ~~Density: 20 du/ac.~~ The following maximum densities are permitted:
 - i. Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and Block 132.01, Lots 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05 are permitted a maximum of 25 du/ac.
 - ii. Block 98, Lot 1.01 are permitted a maximum of 21 du/ac.

L. (add the following) Architectural Design Standards- Refer to §275-12.2 I.

Section 3

All Ordinances of the Borough of Hasbrouck Heights which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

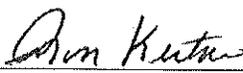
Section 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Approved this 10th day of March 2026

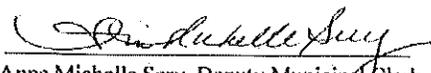

 Ron Kistner, Mayor

Introduced: February 10, 2026

Adopted: March 10, 2026

MEMBER	ABSENT	PRESENT	AYE	NOY	ABSTAIN	PRESENT	ABSENT
Sicaffi			✓				
McGuire		✓	✓				
Hing	✓		✓				
Sedors			✓				
Nanpen			✓				
Huan			✓				

The foregoing Ordinance No. 2601 was finally adopted by the Borough Council at a meeting held on March 10, 2026, and approved by the Mayor on the same date.


 Anne Michelle Sery, Deputy Municipal Clerk

**BOROUGH OF HASBROUCK HEIGHTS
COUNTY OF BERGEN**

ORDINANCE NO. 2602

AN ORDINANCE IMPLEMENTING THE BOROUGH'S FOURTH ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A MEDIATION AGREEMENT REACHED BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING AND TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS, CHAPTER 275 "ZONING" TO ADD THE FOLLOWING HASBROUCK HEIGHTS AFFORDABLE HOUSING OVERLAY ZONE -2 (AHO-2).

WHEREAS, the Borough of Hasbrouck Heights (the "Borough" or "Hasbrouck Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act") on January 16, 2025; and

WHEREAS, the Court entered an order on May 5, 2025, setting the Borough's Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 6, 2025 ("Adopted HEFSP"); and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hasbrouck Heights, County of Bergen, and State of New Jersey that Chapter 275 Zoning of the 1990 Zoning Ordinance of the Borough of Hasbrouck Heights is and shall be amended in the following particulars only:

Section 1. Section 275-7 Districts designated is hereby amended to add the following Zone Designation:

Zone Designation Zone Description

AHO-2 Hasbrouck Heights Affordable Housing Overlay Zone-2.

Section 275-8 Zone Map is hereby amended to include both the new overlay districts AHO-2. More specifically, the following properties shall retain their existing district designation but shall also be subject to the overlay district by their inclusion within the AHO-2 district:

AHO-2 Block 47, Lots 16, 17.01, 17.02 & 18.

Section 2. A new Section 275-12.2 AHO-2 Hasbrouck Heights Affordable Housing Overlay Zone-2 is hereby adopted with following provisions:

§275-12.2 AHO-2 Hasbrouck Heights Affordable Housing Overlay Zone-2

- A. Purpose. This district has been created to assist the Borough of Hasbrouck Heights fulfill a distinct portion of its constitutional obligation to provide affordable housing. The AHO-2 district is designed to partially address this obligation and to implement certain obligations. The provisions of this section are intended to promote the health, safety and welfare of the public and Borough of Hasbrouck Heights and encourage the construction of a mixed use inclusionary

housing development consistent with smart growth design goals in the commercial center of the Borough easily accessible to goods, services and public transit.

B. The following are the principal permitted uses.

- (1) Mixed use attached inclusionary multifamily residential is a principal permitted use located on floors above lower or first floor commercial uses permitted in the underlying B-1 zone. Such commercial uses shall occupy minimally 60 percent of the buildings linear frontage along the Boulevard.

C. Bulk regulations.

- (1) Minimum Tract Area. The minimum area of the lots comprising a tract for development permitted to apply the overlay standards of this zone shall be 20,000 square feet.
- (2) Height. No building shall exceed a maximum height of three (3) stories or 38 feet, whichever is less.

B. Density in the district shall not exceed twenty (20) dwelling units per acre.

C. Yards. Minimum required building setback distances are as established by and for the underlying zone district. Notwithstanding the underlying building setback requirements, any and all three (3) story buildings in this district are required to provide a minimum twenty-five (25) foot setback to any residential zone boundary line.

D. A five (5) foot pavement and parking buffer shall be provided along all residential district zone lines. In those instances when the pavement and parking areas are within ten (10) feet of a residential district boundary line, a solid fence of six (6) feet shall be erected and landscaping to provide screening.

E. Total building and structure coverage in this district shall not exceed fifty (50) percent and maximum improved lot coverage shall not exceed ninety (90) percent.

F. Twenty (20) percent of total number of housing units generated in a development in this district shall be reserved as affordable housing. The developer/property owner shall round the fractional number of affordable units upward to provide one additional whole unit. All such affordable housing shall be deed restricted for a minimum number of years pursuant to NJAC 5:80-26.2 or as periodically updated. Affordable housing as defined in NJAC 5:80-26.2 shall be supplied in accordance with the price stratification and bedroom distribution requirements. All affordable housing units in this district shall be constructed, marketed, occupied and maintained in strict compliance with Hasbrouck Heights's Affordable Housing Ordinance (Chapter 79-Affordable Housing), applicable state and the UHAC rules (N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:99).

G. Off-street Parking.

- (1) The Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, shall be referenced to determine the number of required parking spaces, size of parking spaces, and construction details concerning project streets and drives, sidewalks, water supply and sanitary sewers. Barrier-free parking spaces shall be provided and signed in accordance with the standards of the New Jersey Barrier-Free Code.
- (2) Mixed use developments may meet the required parking provisions of this section by participation in a shared parking of two or more uses, provided that plans for such a program have been approved by the Planning Board, and further provided that the number of the parking spaces equals the sum of the required number of parking spaces of each use participating in the shared parking program. Notwithstanding the foregoing, the reviewing Board may approve a shared parking plan with fewer parking spaces than the sum of the requirements for the participating uses without the need for a variance, if all of the following requirements are complied with:
 - (a) A shared parking provision of off-street parking shall be permitted where adjacent properties are either commonly owned or otherwise controlled, or upon confirmation of shared parking easement rights.

- (b) The applicant must demonstrate that the particular combination of uses and the peak periods of demand for parking spaces, as applicable, are such that a lesser number of spaces are necessary to meet the total parking and/or loading needs for the development at all times.
- (c) The shared parking methodology used by the applicant to calculate the number of shared parking spaces permitted shall be those recommended in the Urban Land Institute "Shared Parking Standards for a Mixed-Use Center" latest edition or similar nationally recognized standard.
- (d) The applicant must demonstrate that the parking are located to be reasonably convenient, safe and suitable for use by the various uses, buildings and/or lots involved in the shared parking program.
- (e) The applicant and the reviewing Board must agree on a mechanism that will ensure that the shared parking and/or loading spaces, as applicable, will continue to comply with this section for the life of the development.

H. Landscape standards: refer to §275-12.1. J. for applicable standards.

I. Architectural Design Standards-The following are architectural design standards for new buildings constructed in this zone.

(3) Architectural and Neighborhood Goals:

- (a) The design standards in this section provide the criteria for proposed development within this zone in order to promote a high quality, pedestrian friendly, mixed use environment. These standards promote:
 - Appropriate scale for a mixed use building;
 - Standards for all permitted and accessory uses;
 - A compatible mixture of architectural styles.

(4) Architectural and Neighborhood Standards:

(a) Architectural Character: Deviations from these standards shall be reviewed as a waiver of such standards subject to the Board's approval.

1. All building details shall reinforce pedestrian scale through the use of features such as windows, doors, porches, columns and balconies;
2. The base of buildings shall be distinguished from the middle and top of the building with an emphasis on providing design elements that will enhance the pedestrian environment particularly at the street level;
3. Elements such as cornices, belt courses, corbelling, molding, string courses, ornamentation, changes in material or color, and other sculpturing of the base are appropriate and should be provided to add special interest to the base;
4. Storefront windows should be distinguished from the rest of the building through the use of arches, pediments, mullions, and other treatments;
5. Building facades in excess of 120 feet in length shall be designed to avoid a monolithic appearance through the use of different façade materials and building setbacks (minimally 3 feet), that act to break the building appearance into smaller increments and sections;
6. Building materials may include brick, stone, cast stone, metal, clay, porcelain, ceramic, tile, resin panels and glass storefront assemblies, wood and fiber cement siding or other material as approved by the reviewing authority;
7. First level commercial, retail and office may be designed using different material than the levels above.

(b) Building Orientation:

1. All buildings shall be oriented toward streets. The building front is the elevation facing any street unless the building is adjacent to a newly constructed park, plaza or open space, in which case the building should orient to both the street and the designed open space;
2. The first floors of all buildings, including parking levels, must be designed to encourage and compliment pedestrian-scale activity as seen from the adjacent streets;

(c) Building Entrances:

1. Building entrances should be easily identifiable and feature large, open and transparent windows.
2. Retail entrances can have up to a 2-foot pop-out / protrusion / recess into the required setback for columns or other architectural features that distinguish the commercial or retail storefront;
3. Entrances for residential, office and uses other than retail should be separate and distinct from retail/commercial entrances.

(d) Doors and Windows:

1. Where windows are used, they should be transparent;
2. Where expanses of solid wall are necessary, they may not exceed 30 feet in length;
3. Windows should align vertically from floor to floor and the pattern of window openings should relate to a building's vertical bay pattern;
4. All windows should have dimensionality so as to create shadows and texture within the building façade;
5. At a minimum, all windows should have deep headers and sills; in addition, trim on all sides that projects from the building facade is encouraged;
6. Window glazing should be recessed relative to the surrounding enframing. If divided lintels are used, they should include external members that cast shadows on the glass;
7. Upper-story windows should be vertically proportioned. Windows may be clustered in pairs and triples to create larger, horizontally proportioned expanses of windows;
8. The first floor and street level must be designed to address all communal streets and all communal public plaza areas.

(e) Roof-line Emphasis:

1. Any pitched roof-line should be emphasized with deep eaves or overhangs, cross gables, and/or dormer windows. The shape of roof-lines should coordinate with and reinforce the variation in bay massing and can be utilized to screen mechanical equipment.
2. Bays for Vertical Articulation:
 - a. Buildings should be broken into bays whose width relates to the width of each residential unit or vertically stacked pair of units;
 - b. Each bay is recommended to not exceed 60 feet in width;
 - c. Examples of elements that contribute to bay differentiation include changes in facade plane, downspouts, expansion joints, pilasters, variation in roof-line, gables, dormers, overhangs, and bay windows or other projections.

Section 3

All Ordinances of the Borough of Hasbrouck Heights which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

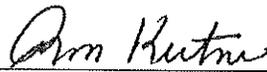
Section 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Approved this 10th day of March 2026



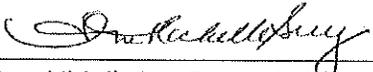
 Ron Kistner, Mayor

Introduced: February 10, 2026

Adopted: March 10, 2026

COUNCILOR	ABSENT	ABSENT	AYE	NAY	ABSTAIN	EXCUSED	ADJUD.
Stekels			✓				
McKeate		✓	✓				
Hung	✓		✓				
Sodora			✓				
Sampson			✓				
Blum			✓				

The foregoing Ordinance No. 2602 was finally adopted by the Borough Council at a meeting held on March 10, 2026, and approved by the Mayor on the same date.



 Anne Michelle Sery, Deputy Municipal Clerk

**BOROUGH OF HASBROUCK HEIGHTS
COUNTY OF BERGEN**

ORDINANCE NO. 2603

AN ORDINANCE IMPLEMENTING THE BOROUGH'S FOURTH ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A MEDIATION AGREEMENT REACHED BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING AND TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS, CHAPTER 275 "ZONING" TO ADD THE FOLLOWING HASBROUCK HEIGHTS AFFORDABLE HOUSING OVERLAY ZONE -3 (AHO-3).

WHEREAS, the Borough of Hasbrouck Heights (the "Borough" or "Hasbrouck Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act") on January 16, 2025; and

WHEREAS, the Court entered an order on May 5, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 6, 2025 ("Adopted HEFSP"); and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hasbrouck Heights, County of Bergen, and State of New Jersey that Chapter 275 Zoning of the 1990 Zoning Ordinance of the Borough of Hasbrouck Heights is and shall be amended in the following particulars only:

Section 1. Section 275-7 Districts designated is hereby amended to add the following Zone Designation:

Zone Designation Zone Description

AHO-3 Hasbrouck Heights Affordable Housing Overlay Zone-3.

Section 275-8 Zone Map is hereby amended to include both the new overlay districts AHO-3. More specifically, the following properties shall retain their existing district designation but shall also be subject to the overlay district by their inclusion within the AHO-3 district:

AHO-3 Block 77.03, Lot 15.

Section 2. A new Section 275-12.3 AHO-3 Hasbrouck Heights Affordable Housing Overlay Zone-3 is hereby adopted with following provisions:

§275-12.3 AHO-3 Hasbrouck Heights Affordable Housing Overlay Zone-3

- A. Purpose. This district has been created to assist the Borough of Hasbrouck Heights in fulfilling a distinct portion of its constitutional obligation to provide affordable housing. The AHO-3 district is designed to partially address this obligation and to implement certain obligations. The provisions of this section are intended to promote the health, safety and welfare of the public and Borough of Hasbrouck Heights and encourage the construction of a multifamily residential inclusionary housing development consistent with smart growth design goals in the Borough accessible to goods, services and public transit.

B. The following are the principal permitted uses.

- (1) Multifamily, and townhouses
- (2) Conditional uses, requiring a special permit as provided in Article VIII, shall be as follows:
 - (a) Public utility facilities or uses.
 - (b) County, state or federal building or uses.

C. Bulk regulations.

- (1) Minimum Tract Area. The minimum area of the lots comprising a tract for development permitted to apply the overlay standards of this zone shall be 18,000 square feet.
- (2) Minimum required front yard: 25 feet.
- (3) Minimum required side yard: 20 feet.
- (4) Minimum required rear yard: 20 feet.
- (5) Height. No building shall exceed a maximum height of two (2) stories or 30 feet, whichever is less.
- (6) Maximum building coverage: 40%.
- (7) Maximum impervious coverage: 75%
- (8) Yards between buildings. A minimum dimension of 35 feet shall be provided between buildings.
- (9) Buffer area. A minimum fifteen-foot-wide landscaped buffer area shall be provided along all external lot lines except a front lot line.

B. Density in the district shall not exceed twenty (20) dwelling units per acre.

C. A five (5) foot pavement and parking buffer shall be provided along all residential district zone lines. In those instances when the pavement and parking areas are within ten (10) feet of a residential district boundary line, a solid fence of six (6) feet shall be erected and landscaping to provide screening.

D. Twenty (20) percent of total number of housing units generated in a development in this district shall be reserved as affordable housing. The developer/property owner shall round the fractional number of affordable units upward to provide one additional whole unit. All such affordable housing shall be deed restricted for a minimum number of years pursuant to NJAC 5:80-26.2 or as periodically updated. Affordable housing as defined in NJAC 5:80-26.2 shall be supplied in accordance with the price stratification and bedroom distribution requirements. All affordable housing units in this district shall be constructed, marketed, occupied and maintained in strict compliance with Hasbrouck Heights's Affordable Housing Ordinance (Chapter 79-Affordable Housing), applicable state regulations and the UHAC rules (N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:99).

E. Off-street Parking.

- (1) The Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, shall be referenced to determine the number of required parking spaces, size of parking spaces, and construction details concerning project streets and drives, sidewalks, water supply and sanitary sewers. Barrier-free parking spaces shall be provided and signed in accordance with the standards of the New Jersey Barrier-Free Code.

F. Landscape standards; refer to §275-12.1. J. for applicable standards.

G. Architectural Design Standards-The following are architectural design standards for new buildings constructed in this zone.

- (1) Architectural and Neighborhood Goals:
 - (a) The design standards in this section provide the criteria for proposed development within this zone in order to promote a high quality, pedestrian friendly environment. These standards promote:

- Appropriate scale for a residential building;
- Standards for all permitted and accessory uses;
- A compatible mixture of architectural styles.

(2) Architectural and Neighborhood Standards:

(a) Architectural Character: Deviations from these standards shall be reviewed as a waiver of such standards subject to the Board's approval.

1. All building details shall reinforce pedestrian scale through the use of features such as windows, doors, porches, columns and balconies;
2. Elements such as cornices, belt courses, corbelling, molding, string courses, ornamentation, changes in material or color, and other sculpturing of the base are appropriate and should be provided to add special interest to the base;
3. Storefront windows should be distinguished from the rest of the building through the use of arches, pediments, mullions, and other treatments;
4. Building facades in excess of 120 feet in length shall be designed to avoid a monolithic appearance through the use of different façade materials and building setbacks (minimally 3 feet), that act to break the building appearance into smaller increments and sections;
5. Building materials may include brick, stone, cast stone, metal, clay, porcelain, ceramic, tile, resin panels and glass storefront assemblies, wood and fiber cement siding or other material as approved by the reviewing authority;

(b) Building Orientation:

1. All buildings shall be oriented toward streets. The building front is the elevation facing any street unless the building is adjacent to a newly constructed park, plaza or open space, in which case the building should orient to both the street and the designed open space;
2. The first floors of all buildings, including parking levels, must be designed to encourage and compliment pedestrian-scale activity as seen from the adjacent streets;

(c) Building Entrances:

1. Building entrances should be easily identifiable and feature large, open and transparent windows.

(d) Doors and Windows:

1. Where windows are used, they should be transparent;
2. Where expanses of solid wall are necessary, they may not exceed 30 feet in length;
3. All windows should have dimensionality so as to create shadows and texture within the building façade;
4. At a minimum, all windows should have deep headers and sills; in addition, trim on all sides that projects from the building facade is encouraged;
5. Upper-story windows should be vertically proportioned. Windows may be clustered in pairs and triples to create larger, horizontally proportioned expanses of windows;

(e) Roof-line Emphasis: Any pitched roof-line should be emphasized with deep eaves or overhangs, cross gables, and/or dormer windows. The shape of

roof-lines should coordinate with and reinforce the variation in bay massing and can be utilized to screen mechanical equipment.

Section 3

All Ordinances of the Borough of Hasbrouck Heights which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

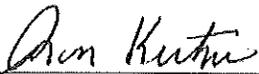
Section 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Approved this 10th day of March 2026

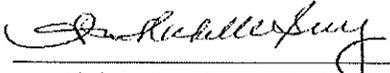

 Ron Kistner, Mayor

Introduced: February 10, 2026

Adopted: March 10, 2026

CONSENT	MOTION	SECOND	AYE	NOY	ABSENT	PRESENT	ABSENT
McCall			✓				
McGuire			✓				
Blag		✓	✓				
Sodara			✓				
Sampson	✓		✓				
Titum			✓				

The foregoing Ordinance No. 2603 was finally adopted by the Borough Council at a meeting held on March 10, 2026, and approved by the Mayor on the same date.


 Anne Michelle Sery, Deputy Municipal Clerk

**BOROUGH OF HASBROUCK HEIGHTS
COUNTY OF BERGEN**

ORDINANCE NO. 2604

AN ORDINANCE IMPLEMENTING THE BOROUGH'S FOURTH ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A MEDIATION AGREEMENT REACHED BETWEEN THE BOROUGH OF HASBROUCK HEIGHTS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING AND TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF HASBROUCK HEIGHTS, CHAPTER 275 "ZONING" TO ADD THE FOLLOWING HASBROUCK HEIGHTS AFFORDABLE HOUSING OVERLAY ZONE-4 (AHO-4).

WHEREAS, the Borough of Hasbrouck Heights (the "Borough" or "Hasbrouck Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the "Fair Housing Act") on January 16, 2025; and

WHEREAS, the Court entered an order on May 5, 2025, setting the Borough's Fourth Round fair share obligations as a Present Need of 8 units and a Prospective Need of 143 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 6, 2025 ("Adopted HEFSP"); and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hasbrouck Heights, County of Bergen, and State of New Jersey that Chapter 275 Zoning of the 1990 Zoning Ordinance of the Borough of Hasbrouck Heights is and shall be amended in the following particulars only:

Section 1. Section 275-7 Districts designated is hereby amended to add the following Zone Designation:

<u>Zone Designation</u>	<u>Zone Description</u>
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AHO-4	Hasbrouck Heights Affordable Housing Overlay Zone-4.
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Section 275-8 Zone Map is hereby amended to include both the new overlay districts AHO-4. More specifically, the following properties shall retain their existing district designation but shall also be subject to the overlay district by their inclusion within the AHO-4 district:

AHO-4	Block 200.01, Lot 11.
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Section 2. A new Section 275-12.4 AHO-4 Hasbrouck Heights Affordable Housing Overlay Zone-4 is hereby adopted with following provisions:

§275-12.4 AHO-4 Hasbrouck Heights Affordable Housing Overlay Zone-4

- A. Purpose. This district has been created to assist the Borough of Hasbrouck Heights in fulfilling a distinct portion of its constitutional obligation to provide affordable housing. The AHO-4 district is designed to partially address this obligation and to implement certain obligations. The provisions of this section are intended to promote the health, safety and welfare of the public and Borough of Hasbrouck Heights and encourage the construction of a multifamily residential inclusionary housing development consistent with smart growth design goals in the Borough accessible to goods, services and public transit.

B. The following are the principal permitted uses.

- (1) Multifamily residential is a principal permitted use in accordance with the regulations contained herein.
- (2) Conditional uses, requiring a special permit as provided in Article VIII, shall be as follows:
 - (a) Public utility facilities or uses.
 - (b) County, state or federal building or uses.

C. Bulk regulations.

- (1) Minimum Tract Area. The minimum area of the lots comprising a tract for development permitted to apply the overlay standards of this zone shall be 18,000 square feet.
- (2) Minimum required front yard: 25 feet.
- (3) Minimum required side yard: 20 feet.
- (4) Minimum required rear yard: 20 feet.
- (5) Height. No building shall exceed a maximum height of three (3) stories or 38 feet, whichever is less.
- (6) Maximum building coverage: 40%.
- (7) Maximum impervious coverage: 75%
- (8) Yards between buildings. A minimum dimension of 35 feet shall be provided between buildings.
- (9) Buffer area. A minimum fifteen-foot-wide landscaped buffer area shall be provided along all external lot lines except a front lot line.
- (10) Notwithstanding the zone building setback requirements, any and all three (3) story buildings in this district is required to provide a minimum twenty-five (25) foot setback to any existing single or two family residential developed lot line.

B. Density in the district shall not exceed twenty (25) dwelling units per acre.

C. Yards. Minimum required building setback distances are as established by and for the underlying zone district.

D. A five (5) foot pavement and parking buffer shall be provided along all residential district zone lines. In those instances when the pavement and parking areas are within ten (10) feet of a residential district boundary line, a solid fence of six (6) feet shall be erected and landscaping to provide screening.

E. Twenty (20) percent of total number of housing units generated in a development in this district shall be reserved as affordable housing. The developer/property owner shall round the fractional number of affordable units upward to provide one additional whole unit. All such affordable housing shall be deed restricted for a minimum number of years pursuant to NJAC 5:80-26.2 or as periodically updated. Affordable housing as defined in NJAC 5:80-26.2 shall be supplied in accordance with the price stratification and bedroom distribution requirements. All affordable housing units in this district shall be constructed, marketed, occupied and maintained in strict compliance with Hasbrouck Heights's Affordable Housing Ordinance (Chapter 79-Affordable Housing), applicable state regulations and the UHAC rules (N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:99).

F. Off-street Parking and Circulation.

- (1) The Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, shall be referenced to determine the number of required parking spaces, size of parking spaces, and construction details concerning project streets and drives, sidewalks, water supply and sanitary sewers. Barrier-free parking spaces shall be provided and signed in accordance with the standards of the New Jersey Barrier-Free Code.

G. Landscape standards; refer to §275-12.1. J. for applicable standards.

H. Architectural Design Standards- refer to §275-12.3. G. for applicable standards.

Section 3

All Ordinances of the Borough of Hasbrouck Heights which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

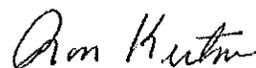
Section 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Approved this 10th day of March 2026



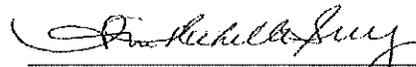
Ron Kistner, Mayor

Introduced: February 10, 2026

Adopted: March 10, 2026

COUNCIL	BOHLEN	STOKES	AYE	NAY	ABSENT	EXCUSE	AUSP
Stickle			✓				
McIntire		✓	✓				
Bing	✓		✓				
Nodara			✓				
Sampson			✓				
Bloom			✓				

The foregoing Ordinance No. 2604 was finally adopted by the Borough Council at a meeting held on March 10, 2026, and approved by the Mayor on the same date.



Anne Michelle Sery, Deputy Municipal Clerk