



A. TOWNSHIP COMMITTEE RESOLUTION OF ENDORSEMENT OF AMENDMENT TO FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

RESOLUTION TC 26-070
TOWNSHIP COMMITTEE - TOWNSHIP OF HARDING
MORRIS COUNTY, NEW JERSEY
JANUARY 12, 2026
RESOLUTION OF THE TOWNSHIP OF HARDING ENDORSING THE
AMENDMENT TO THE HOUSING ELEMENT AND FAIR SHARE PLAN
ADOPTED BY THE HARDING PLANNING BOARD

WHEREAS, on March 20, 2024, Governor Murphy signed P.L. 2024, c.2 into law, which amended the 1985 New Jersey Fair Housing Act; and

WHEREAS, for ease in reference, this resolution shall refer to the Fair Housing Act as amended as “FHA II”; and

WHEREAS, FHA II established a procedure by which municipalities can secure approval of a Housing Element and Fair Share Plan (“HEFSP”) and secure immunity while developing and seeking approval of a 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 filing a HEFSP by June 30, 2025 with the Affordable Housing Dispute Resolution Program (the “Program”) within 48 hours of adoption of the Plan; and

WHEREAS, the Township having previously adopted an HEFSP dated June 12, 2025, and having timely the HEFSP with the Court; and

WHEREAS, following the adoption and filing of the HEFSP, there was a statutory deadline to file comments/objections to the HEFSP by August 31, 2025; and

WHEREAS, several interested parties filed objections to the Township’s HEFSP; and

WHEREAS, as a result of those objections, certain changes to the HEFSP were required; and

WHEREAS, the Township authorized the preparation of an amendment to HEFSP, prepared by Michael F. Sullivan, ASLA, AICP, and Elaine Clisham, PP/AICP, attached hereto as **Exhibit A** and dated December 15, 2025; and

WHEREAS, the Harding Township Planning Board adopted the HEFSP on December 15, 2025; and

WHEREAS, the Township’s Affordable Housing Counsel filed the duly adopted Amendment to the HEFSP with the Program within 48 hours from adoption; and

WHEREAS, the Township now wishes to endorse the Amendment to the HEFSP adopted by the Harding Planning Board and seek approval of the HEFSP by the Program and Court.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Harding, County of Morris, State of New Jersey, as follows:

1. The Township Council hereby endorses the Amendment to the HEFSP previously adopted by the Harding Planning Board and attached hereto.

**RESOLUTION TC 26-070
TOWNSHIP COMMITTEE - TOWNSHIP OF HARDING
MORRIS COUNTY, NEW JERSEY
JANUARY 12, 2026**

**RESOLUTION OF THE TOWNSHIP OF HARDING ENDORSING THE
AMENDMENT TO THE HOUSING ELEMENT AND FAIR SHARE PLAN
ADOPTED BY THE HARDING PLANNING BOARD**

2. The Township Council hereby directs the Township’s Affordable Housing Counsel to (a) file this resolution with the Program, along with any additional documents the professionals deem necessary or desirable; and (b) seek a Compliance Certification from the Program or Vicinage area judge as may be appropriate formally approving the Plan.

3. The Township reserves the right to further amend the HEFSP attached hereto, should that be necessary.

DATED: January 12, 2026

I, Lisa A. Sharp, Municipal Clerk of the Township of Harding, County of Morris, State of New Jersey, do hereby certify the foregoing resolution to be a true and correct copy of a resolution adopted by the Township Committee at the meeting held on January 12, 2026.

Lisa A. Sharp, Municipal Clerk

Vote on Resolution:

| | MOTION | FOR APPROVAL | AGAINST APPROVAL | ABSTAIN |
|----------------|-----------------|-------------------------------------|--------------------------|--------------------------|
| Ms. Chipperson | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Lacz | 1 st | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Platt | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Yates | 2 nd | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Jones | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



B. ADOPTED AMENDMENT TO AHO-2 ZONE

**TOWNSHIP OF HARDING
ORDINANCE #01-2026**

ORDINANCE AMENDING CHAPTER 225, SECTION 139, “AHO-2 AFFORDABLE HOUSING OVERLAY 2 ZONE,” TO CHANGE CERTAIN REQUIREMENTS WITHIN THE AHO-2 ZONE

WHEREAS, in compliance with the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 1, 2015, the Township filed an action with the Morris County Superior Court of New Jersey, entitled In the Matter of the Application of the Township of Harding, Docket No. MRS-L-1672-15, seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan, in addition to related forms of relief; and

WHEREAS, on January 28, 2019, the Township adopted Ordinance 05-19, which established the AHO-2 affordable housing overlay zone in furtherance of the Township’s obligations under the Mount Laurel doctrine, which was subsequently amended by Ordinance 27-2024 on December 9, 2024 and ordinance 09-2025 on November 10, 2025; and

WHEREAS, the AHO-2 overlay zone was included in the Township’s Housing Element and Fair Share Plan (“Plan”), which Plan was approved via Judgment of Compliance and Repose (“JOR”), dated June 17, 2020; and

WHEREAS, on March 20, 2024, the Governor signed into law amendments to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (the “Amended FHA”) that governs the affordable housing process for the Fourth Round and beyond; and

WHEREAS, the Amended FHA includes a process that allows municipalities to demonstrate their compliance with the Mount Laurel doctrine and receive a Compliance Certification from the Affordable Housing Dispute Resolution Program (the “Program”) protecting them from Exclusionary Zoning Litigation (as defined in the Amended FHA); and

WHEREAS, on June 23, 2025, pursuant to Resolution PB #05-2025, the Township Planning Board adopted a Housing Element and Fair Share Plan dated June 12, 2025 (the “Township HEFSP”); and

WHEREAS, on June 24, 2025, pursuant to Resolution TC 25-126, the Township Council endorsed the Township HEFSP; and

WHEREAS, the Township submitted the Township HEFSP to the Program on June 24, 2025; and

WHEREAS, Toll NJ 1, L.L.C. (“Toll”), is the contract purchaser of 1200 Mount Kemble Avenue, which is designated as Block 46.01, Lot 9 on Harding’s tax map (the “Toll Property”);

WHEREAS, Toll filed an objection to the Township HEFSP on August 26, 2025, and

WHEREAS, Toll and the Township entered into a Settlement Agreement on November [___], 2025, to settle Toll’s objection to the Township HEFSP; and

**TOWNSHIP OF HARDING
ORDINANCE #01-2026**

ORDINANCE AMENDING CHAPTER 225, SECTION 139, "AHO-2 AFFORDABLE HOUSING OVERLAY 2 ZONE," TO CHANGE CERTAIN REQUIREMENTS WITHIN THE AHO-2 ZONE

WHEREAS, these amendments are designed to effectuate the terms of the Settlement Agreement, including permitting an aggregate density of not more than ten (10) units per acre of for-sale townhomes on the Toll Property and the adjacent parcel designated as Block 46.01, Lot 10.

BE IT ORDAINED, by the Township Committee of the Township of Harding, County of Morris, State of New Jersey, as follows:

Purpose: An ordinance amending Chapter 225, Section 139, "AHO-2 Affordable Housing Overlay 2 Zone," to change certain requirements to better achieve the production of affordable housing within the AHO-2 zone.

SECTION I. The Municipal Code, Chapter 225, Section 139, "AHO-2 Affordable Housing Overlay 2 Zone," is hereby amended and shall read as follows: [New language in **bold and underlined**; Deleted language in ~~double strikethrough~~.]

- A. Purpose. The purpose of the AHO-2 Affordable Housing Overlay 2 Zone is to provide mechanisms for partially addressing the Township's affordable housing obligation consistent with the adopted Housing Element/Fair Share Plan. The overlay zone permits inclusionary residential and mixed-use development with a 20% affordable housing set-aside in the southern portion of the B-2 Business Zone, OB Office Building Zone, and R-1 Residence Zone along Route 202/Mount Kemble Avenue. The underlying zoning remains in effect and any use permitted in the underlying zones continues to be permitted. The properties subject to the AHO-2 Affordable Housing Overlay 2 Zone are shown on the amended Zoning Map of the Township of Harding. No building, structure or premises shall be used, erected or altered except for the principal and accessory uses found herein.
- B. Principal permitted uses. All development shall be subject to the density provisions of this section. Sites may develop with or without a commercial component. Sites may be developed with multiple principal buildings and permitted uses on one lot.
 - (1) Mixed-use inclusionary development consisting of commercial uses permitted by B-2 Business Zone and multifamily residential. Sites may be developed with commercial and residential in the same building or in separate/multiple buildings on site. The sites may be developed through adaptive reuse of the existing buildings, adaptive reuse and expansion of existing buildings, or the demolition and construction of new buildings.
 - (2) Townhouses;
 - (3) Stacked townhouses i.e. interlocking multi-level multi-family dwelling units such that a unit may be situated partially or wholly above or below another similar unit. No more than ~~three~~ **four** such units may be included in a building between two party walls which extend from the foundations to and through the roof.

TOWNSHIP OF HARDING
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THE AHO-2 ZONE

(4) Multi-family residential without a commercial component for the blocks and lots identified in subsection D(1).

C. Accessory uses permitted.

- (1) Garages and off-street parking facilities.
- (2) Administrative offices for an on-site resident superintendent, property manager, or Township personnel.
- (3) Sewage treatment or conveyance facilities, as appropriate, including one or more pumping stations serving the principal use(s).
- (4) Storage and maintenance areas or buildings.
- (5) Storage areas for solid waste and recycling.
- (6) Other uses customarily incidental and accessory to the principal use(s), such as fencing and signs.

D. Maximum residential densities.

- (1) The following blocks and lots may be developed at a maximum density of six units per acre for lots under two acres; eight units per acre for existing lots or assembled lots that are parcels two acres or more in size:
 - a. Block 32, Lots 1.02, 4, 9.01 and 9.02;
 - b. Block 46.01, Lots 8 and 9.01;
 - c. Block 33.03, Lots 3.02, 4, 8, 18, and 19.
- (2) The blocks and lots identified in subsection D(1) may be developed at a maximum density of ten units per acre if the following standards are met:
 - a. The lot or assembled lots have an area of two acres or greater; and
 - b. The development will utilize an on-site package treatment facility for wastewater treatment and not public sewer.
- (3) Block 46.01 Lots ~~9 and~~ 10 and Block 46.01 Lot 13.02 may be developed at a maximum density of eight units per acre for for-sale projects or 10 units per acre for rental projects:
 - a. Eight units per acre for for-sale units (inclusive of an affordable housing set-aside of at least 20%)
 - b. Notwithstanding the foregoing, a density of 8.2 units per acre shall be permitted for for-sale units if:
 - i. At least one full unit of additional affordable housing is proposed in excess of the minimally required 20% set-aside (which includes rounding up of fractional units) for projects consisting of less than 8 acres; or

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- ii. At least two full units of additional affordable housing is proposed in excess of the minimally required 20% set-aside (which includes rounding up of fractional units) for projects consisting of 8 acres or more.
 - iii. This density enhancement shall not be triggered by fractional units.
 - c. Ten units per acre for entirely rental projects (i.e. projects that are rental for both the market rate *and* affordable).
- (4) **Block 46.01, Lot 9 may be developed at a maximum density of 11.8 units per acre for for-sale units, which when combined with Block 46.01, Lot 10 shall yield no more than 10 total units per acre, if at least one full unit of additional affordable housing is proposed on Block 46.01, Lot 9 in excess of the minimally required 20% set-aside (which includes rounding up of fractional units).**
- E. Bulk regulations.
- (1) Minimum lot size: 40,000 square feet.
 - (2) Minimum lot width: 140 feet.
 - (3) Maximum building height:
 - a. Properties with frontage along the east side of Route 202: three stories and 44 feet above mean finished grade.
 - b. Properties with frontage along the west side of Route 202: three stories and 37.5 feet above mean finished grade.
 - (4) Minimum setbacks: 50 feet from any front lot line and 30 feet from any other lot line.
 - (5) Maximum total lot coverage: ~~45~~5%.
- F. Affordable housing requirements. An affordable housing set-aside of 20% for all sales and rental projects is required.
- G. Supplemental standards for the AHO-2 Zone.
- (1) Section 225-147, Supplementary standards, for the B-2 Zone shall apply. Should conflict occur between §225-147 and this section, this section shall govern.
 - (2) Berming shall be required for development along the east side of Route 202 that does not include a commercial component. Berms must be:
 - a. A minimum of 5 feet in height measured from the internal development elevation and shall be planted with a mixture of trees and shrubs so as to create the maximum visual screen along the frontage.
 - (3) Sidewalks shall be provided on at least one side of all internal roadways.
 - (4) All internal lighting shall be pursuant to Harding's light standards, with the exceptions that LED bulbs are permitted, and light temperatures (Kelvin) shall ~~range between~~

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- 2700K ~~and 3000K~~ Township standards are found at Ordinance Section 225-85 and Chapter 223 and require light fixtures used on individual units to be designed to direct the light down and shielded to prevent glare. Therefore, all internal street lighting shall be provided via bollard lights. If bollard lighting is proven not to meet minimum safety and emergency requirements and/or the illumination standards of this Chapter or the State, other lighting styles designed to shield against glare shall be permitted pending approval by the Planning Board at the time of site plan review.
- (5) The components of subsurface wastewater treatment and disposal systems as well as stormwater management improvements (and associated retaining walls) and utilities may be located within the setbacks.
- (6) Above-ground buildings associated with subsurface wastewater treatment and disposal systems:
- a. Shall be located a minimum of 50 feet from all property lines.
 - b. Shall be designed to be architecturally compatible with the proposed development, including but not limited to exterior materials, colors, and lighting fixtures.
 - c. Shall not be taller than 25 feet in height.
 - d. For development on the east side of Route 202, such above-ground buildings may be located within the front yard setbacks of the Interstate 287 frontage.
 - e. Developments on either side of Route 202 may locate such buildings in side or rear yards. Such buildings shall never be located within the Route 202 setback requirements and shall not be placed between the front of a principal building and Route 202.
 - f. Landscaping shall be planted around the building to contribute to its aesthetics as well as to shield the building from the public right-of-way.
- (7) Decks and patios associated with residential development shall be a minimum of 25 feet from any lot line and are permitted to be located in front of the front façade of a principal building. All decks and patios shall be shielded from public rights-of-way via berming or landscaping.
- (8) All units shall provide suitable storage for bicycles as well as trash and recycling containers. Should indoor storage of such items prove impracticable due to a lack of garage, an exterior storage shed must be provided. Such sheds shall be designed to an appropriate size as reviewed and approved by the Planning Board at the time of site plan approval. Such sheds shall be in close proximity to the unit(s) they are serving and may be placed adjacent to a deck or patio or adjacent the side of the building. Such shed shall never be in front of the front door to a unit. Such shed shall be screened from public rights-of-way via berming or landscaping.

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THE AHO-2 ZONE

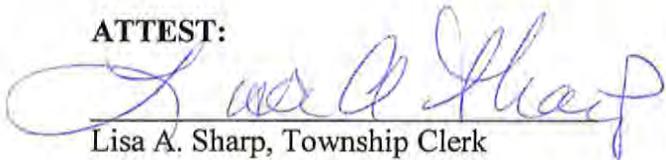
-
- (9) Emergency generators, air conditioning condensers, and heat pumps shall be planned for and shown on any site plan drawings associated with an application for site plan approval.
- a. In multi-family or mixed-use development, roof-top placement is preferred to ground-mounted equipment and shall be screened from public view.
 - b. For generators, noise shall not exceed a manufacturer's noise level rating that does not exceed 70 dB(a) at 23 feet (seven meters)
 - c. Ground-mounted equipment:
 - i. May have a footprint (including the pad) not to exceed 20 square feet per unit.
 - ii. Shall not exceed four feet in height.
 - iii. Shall abide by the setbacks and standards associated with patios and decks found in subparagraph (7) above.
 - iv. Shall be appropriated screened/buffered by nondeciduous plantings (subject to seasonal planting timing limitations) and/or a fence so as to minimize visibility from all lot lines from which the setback is less than the minimum applicable to buildings and structures.
- (10) In the event of fee-simple townhouse and stacked townhouse development, the bulk standards found herein shall be applied to the entire tract.
- (11) One monument sign shall be permitted pursuant to the standards the AH Affordable Housing Zone, articulated in Section 225-120.E of the Municipal Code.
- (12) Parking standards shall be pursuant to Section 225-147 of the Municipal Code, with the exception that residential development shall provide parking at a rate of 1.8 spaces per unit.

SECTION 2. This ordinance may be renumbered for the purposes of codification.

SECTION 3. This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

**TOWNSHIP OF HARDING
ORDINANCE #01-2026
ORDINANCE AMENDING CHAPTER 225, SECTION 139, "AHO-2 AFFORDABLE
HOUSING OVERLAY 2 ZONE," TO CHANGE CERTAIN REQUIREMENTS WITHIN
THE AHO-2 ZONE**

ATTEST:


Lisa A. Sharp, Township Clerk

TOWNSHIP OF HARDING


Timothy D. Jones, Mayor

INTRODUCED: January 12, 2026

ADVERTISED: January 15, 2026

PUBLIC HEARING: February 9, 2026

ADOPTED: February 9, 2026

ADVERTISED: February 12, 2026

Vote on Adoption:

| | MOTION | FOR APPROVAL | AGAINST APPROVAL | ABSTAIN |
|----------------|---------------|-------------------------------------|-----------------------------|--------------------------|
| Ms. Chipperson | <i>2nd</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Lacz | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Platt | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Yates | <i>1st</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Jones | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



C. ADOPTED RESOLUTION OF NEED, ZONING ORDINANCE FOR 56 KITCHELL ROAD

RESOLUTION TC 26-096
TOWNSHIP COMMITTEE – TOWNSHIP OF HARDING
MORRIS COUNTY, NEW JERSEY
MARCH 9, 2026
RESOLUTION OF NEED

WHEREAS, Harding Family Apartments LLC (hereinafter referred to as the “Sponsor”) proposes to construct a 54-unit affordable housing project (hereinafter referred to as the “Project”) pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1.1 et seq., and all applicable guidelines promulgated thereunder (the foregoing hereinafter collectively referred to as the “HMFA Requirements”) within the Township of Harding (hereinafter referred to as the “Municipality”) on a site located at Block 1, Lot 10, Harding Township, New Jersey as shown on the Official Assessment Map of the Harding Township, Morris County; and

WHEREAS, the Project will be subject to the HMFA requirements, and any mortgage or Project finance documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the “Agency”); and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality.

BE IT RESOLVED, by the Committee of the Township of Harding, County of Morris, State of New Jersey (the “Committee”), as follows

- (1) The Committee finds and determines that the 54-unit affordable housing Project proposed by the Sponsor to be constructed meets or will meet an existing housing need.
- (2) The Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of the HMFA Law to enable the Agency to process the Sponsor’s application for Agency funding to finance the Project.
- (3) The Committee further finds that the Project is consistent with the Township’s Housing Element and Fair Share Plan and is intended to contribute toward the Township’s constitutional affordable housing obligations.

BE IT FURTHER RESOLVED, that this Resolution shall take effect pursuant to law.

**RESOLUTION TC 26-096
TOWNSHIP COMMITTEE – TOWNSHIP OF HARDING
MORRIS COUNTY, NEW JERSEY
MARCH 9, 2026
RESOLUTION OF NEED**

DATED: March 9, 2026

I, Lisa A. Sharp, Municipal Clerk of the Township of Harding, County of Morris, State of New Jersey, do hereby certify the foregoing resolution to be a true and correct copy of a resolution adopted by the Township Committee at the meeting held on March 9, 2026

Lisa A. Sharp, Municipal Clerk

Vote on Resolution:

| | MOTION | FOR APPROVAL | AGAINST APPROVAL | ABSTAIN | ABSENT |
|----------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Ms. Chipperson | 2d | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Lacz | 1 st | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Platt | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Yates | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Jones | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**TOWNSHIP OF HARDING
ORDINANCE 06-2026**

**AN ORDINANCE OF THE TOWNSHIP OF HARDING TO AMEND ARTICLE XXVII
OF CHAPTER 225 "LAND USE AND DEVELOPMENT", TO CREATE AN
AFFORDABLE HOUSING ZONE KNOWN AS §225-137.3 AH-MF-1 AFFORDABLE
HOUSING MULTIFAMILY-1 ZONE**

WHEREAS, on March 20, 2024, the Governor signed into law amendments to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (the "Amended FHA") that governs the affordable housing process for the Fourth Round and beyond; and

WHEREAS, the Amended FHA includes a process that allows municipalities to demonstrate their compliance with the Mount Laurel doctrine and receive a Compliance Certification from the Affordable Housing Dispute Resolution Program (the "Program") protecting them from Exclusionary Zoning Litigation (as defined in the Amended FHA); and

WHEREAS, the Township of Harding is proposing a 100% affordable housing project to be located on Block 1, Lot 10 on the tax maps of the Township of Harding; and

WHEREAS, in furtherance of the Township's Housing Element and Fair Share Plan ("HEFSP"), the Township seeks to create the requisite zoning standards for the 100% affordable housing project to be located on Block 1, Lot 10; and

WHEREAS, the Township Committee formally refers this Ordinance to the Planning Board for examination, discussion, and recommendations in accordance with N.J.S.A. 40:55D-26.

BE IT ORDAINED, by the Township Committee of the Township of Harding, Morris County, State of New Jersey, as follows:

Purpose: The AH-MF-1 District includes the entirety of Block 1, Lot 10, which is owned by the Township of Harding. This Zone provides for the development of 54 affordable dwelling units, consisting of no less than 40 family rental apartments, with the balance consisting of supportive housing units, and 100% of the dwellings affordable to low- and moderate-income households.

Section 1: §225-113 Zone Boundaries and Zoning Map. The Harding Township Zoning Map shall hereby be amended as follows:

§225-113.F The Harding Township Zoning Map shall hereby be amended to rezone Block 1, Lot 10 as the AH-MF-1 Affordable Housing Multifamily-1 Zone.

Section 2. This Ordinance hereby creates Chapter 225-137.3. AH-MF-1 Affordable Housing Multifamily-1 Zone regulations and shall read as follows:

§225-137.3 AH-MF-1 Affordable Housing Multifamily-1

- A. **Applicability.** The use, bulk, design and performance standards of the AH-MF-1 Zone shall supersede the existing zoning provisions of the Harding Township Land Use Ordinance Chapter 225. However, where the regulations and standards of the AH-MF-1 Zone are silent, the standards of Chapter 225 shall apply.

**TOWNSHIP OF HARDING
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AN ORDINANCE OF THE TOWNSHIP OF HARDING TO AMEND ARTICLE XXVII
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HOUSING MULTIFAMILY-1 ZONE**

- B. Permitted principal uses
 - (1) Multifamily rental apartments, including supportive housing. There is no limit on the number of buildings that may be constructed.
- C. Permitted accessory uses.
 - (1) Active and passive common recreational facilities
 - (2) Administrative or maintenance office
 - (3) Fences and walls
 - (4) Off-street parking
 - (5) Open space
 - (6) Signs
 - (7) Site furnishings (seating, trash and recycling enclosures, site lighting, etc.)
 - (8) Storage and maintenance areas or buildings
 - (9) Stormwater management facilities
 - (10) Utility infrastructure
- D. Area and yard requirements. This applies to principal and accessory buildings and structures, except as indicated and, as such, shall supersede §225-116.D, §225-116.G.
 - (1) Minimum tract area: The entirety of Block 1, Lot 10
 - (2) Maximum building height: 50 feet and three stories
 - (3) Minimum front yard setback: 20 feet
 - (4) Minimum setback for all other yards: 50 feet
 - (5) Maximum impervious coverage: 55%
 - (6) Minimum planted buffer width to single-family residential zone or use: 30 feet
- E. Off-street parking
 - (1) Minimum off-street parking: 1.5 spaces per dwelling unit
 - (2) Minimum front yard setback: 15 feet
 - (3) Minimum setback for all other yards: 50 feet
- F. Lighting
 - (1) Lighting shall comply with Chapter 225 Article XVI §225-85 Lighting.
 - (2) Lighting shall comply with Chapter 233 Lighting, Exterior.

TOWNSHIP OF HARDING
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AN ORDINANCE OF THE TOWNSHIP OF HARDING TO AMEND ARTICLE XXVII
OF CHAPTER 225 “LAND USE AND DEVELOPMENT”, TO CREATE AN
AFFORDABLE HOUSING ZONE KNOWN AS §225-137.3 AH-MF-1 AFFORDABLE
HOUSING MULTIFAMILY-1 ZONE

G. Signs

- (1) All signs shall comply with Chapter 225 Article XXIII Signs.

H. Exemptions

- (1) Pursuant to N.J.A.C. 5:97-10 municipalities should strive to eliminate unnecessary cost-generative requirements in the development of affordable housing. Development within this Zone shall be exempt from the following regulations:
 - (a) §225-116.M Tree Conservation
 - (b) §225-116.O Dry Well Requirements

I. Affordable housing

- (1) Minimum number of affordable dwelling units: 54
- (2) Minimum number of affordable dwellings available to families for rent (non-age-restricted): 40
- (3) Minimum number of supportive units: five
- (4) No less than 20% of family rental units shall be three-bedroom units
- (5) Affordable units shall meet the Township’s affordable housing requirements and the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). Compliance with the Uniform Housing Affordability Control rules (“UHAC”; N.J.A.C. 5:80-26.1 et seq.) shall be required unless exempt pursuant to N.J.A.C. 5:80-26.1, including but not limited to developments with anticipated funding from the Federal Low-Income Housing Tax Credit (LIHTC) pursuant to Section 42 of the Internal Revenue Code. Notwithstanding any exemption from UHAC, the affordable units shall meet the bedroom and income distribution requirements (N.J.A.C. 5:80-26.4) and occupancy standards (N.J.A.C. 5:80-26.5). The developer shall be responsible for administration and affirmative marketing of the affordable units.
- (6) Initial affordability controls for all affordable units shall be no less than 40 years.

Section 3. Repealer

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

Section 4. Severability

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

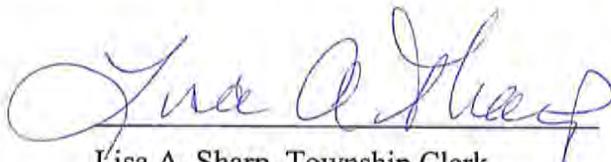
**TOWNSHIP OF HARDING
ORDINANCE 06-2026
AN ORDINANCE OF THE TOWNSHIP OF HARDING TO AMEND ARTICLE XXVII
OF CHAPTER 225 "LAND USE AND DEVELOPMENT", TO CREATE AN
AFFORDABLE HOUSING ZONE KNOWN AS §225-137.3 AH-MF-1 AFFORDABLE
HOUSING MULTIFAMILY-1 ZONE**

Section 5. Effective Date

This ordinance shall take effect upon its passage and publication, as required by law. This Ordinance may be recodified pursuant to the current Township Code.

ATTEST:

TOWNSHIP OF HARDING



Lisa A. Sharp, Township Clerk



Timothy D. Jones, Mayor

INTRODUCED: February 19, 2026 **ADVERTISED:** March 5, 2026
PUBLIC HEARING: March 9, 2026
ADOPTED: March 9, 2026 **ADVERTISED:** March 12, 2026

Vote on Adoption:

| | MOTION | FOR APPROVAL | AGAINST APPROVAL | ABSTAIN |
|----------------|---------------|-------------------------------------|-----------------------------|--------------------------|
| Ms. Chipperson | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Lacz | <i>2nd</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Platt | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Yates | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Jones | <i>1st</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



D. ADOPTED AFFORDABLE HOUSING ORDINANCE, DEVELOPMENT FEE ORDINANCE

**TOWNSHIP OF HARDING
ORDINANCE 05-2026**

AN ORDINANCE OF THE TOWNSHIP OF HARDING, MORRIS COUNTY, STATE OF NEW JERSEY, TO REPEAL, REPLACE, AND RESERVE PART I, ARTICLE VIII, “AFFORDABLE HOUSING ADMINISTRATION”, §7-48 THROUGH §7-51; TO REPEAL AND RESERVE PART II, CHAPTER 171, ARTICLE II, “AFFORDABLE HOUSING”, §171-3; AND TO REPEAL AND REPLACE CHAPTER 225, ARTICLE XLI, “AFFORDABLE HOUSING REQUIREMENTS”, §225-195 THROUGH §225-215

WHEREAS, on March 20, 2024, the Governor signed into law amendments to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (the “Amended FHA”) that governs the affordable housing process for the Fourth Round and beyond; and

WHEREAS, the Amended FHA includes a process that allows municipalities to demonstrate their compliance with the Mount Laurel doctrine and receive a Compliance Certification from the Affordable Housing Dispute Resolution Program (the “Program”) protecting them from Exclusionary Zoning Litigation (as defined in the Amended FHA); and

WHEREAS, as a requirement of that process, the Township must adopt a new affordable housing ordinance which implements the requirements outlined in the Amended FHA and pertinent regulations; and

WHEREAS, the Township Committee of the Township of Harding recognizes the need to amend its Affordable Housing Ordinance to implement the Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, the Township Committee formally refers this Ordinance to the Planning Board for examination, discussion, and recommendations in accordance with N.J.S.A. 40:55D-26.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Harding, Morris County, New Jersey, as follows:

Purpose: An ordinance amending Chapter 225, Section 139, “AHO-2 Affordable Housing Overlay 2 Zone,” to change certain requirements to better achieve the production of affordable housing within the AHO-2 zone.

Section 1: Part I, Article VIII, **Affordable Housing Administration**, §7-48 thru §7-51 are hereby REPEALED in their entirety and RESERVED.

Section 2. Part II, **General Legislation**, Chapter 171, Article II, **Affordable Housing**, §171-3, **Development Fees**, is hereby REPEALED in its entirety and RESERVED.

Section 3. Part II, Chapter 225, Part 5, **AFFORDABLE HOUSING REGULATIONS**, Article XLI, **Affordable Housing Requirements**, §225-195 through §225-216, is hereby REPEALED in its entirety and REPLACED with the following:

Article XLI Affordable Housing Requirements

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“AFFORDABLE HOUSING REQUIREMENTS”, §225-195 THROUGH §225-215**

§225-195 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.

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“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.

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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,

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roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Department” means the New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

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

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

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

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

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

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

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

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

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

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

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“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

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transfer of ownership through an executor’s deed to a class A beneficiary; and the transfer of ownership by court order.

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

“Non-residential development” means:

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

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

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

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

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

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

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

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

“Person with a disability” means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment,

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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.

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

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

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

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

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

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

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

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

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

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

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“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

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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.

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“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.

§225-196 Introduction & Applicability

- A. This Part 5 sets forth regulations regarding the very low-, low- and moderate-income housing units in the Township of Harding consistent with the Mount Laurel doctrine, including but not limited to any relevant statutes, case law, and regulations, and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
- B. This Part 5 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 Part 5 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 E.3. below.
- C. The Harding Township Planning Board has adopted an amended Fourth Round 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 Part 5 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 are proposed to be created pursuant to the municipality’s most recently adopted HEFSP, unless granted a waiver pursuant to UHAC and approved by the County-level housing judge. All affordable housing units and affordable housing developments that were previously created pursuant to any prior

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approvals, HEFSP, and/or a Judgment of Compliance and Repose (JOR) shall remain subject to the terms of those prior documents.

- (2) This Ordinance shall apply to all future 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 shall be required to follow UHAC unless exempt pursuant to N.J.A.C. 5:80-26.1, including but not limited to developments with anticipated funding from the Federal Low-Income Housing Tax Credit (LIHTC) pursuant to Section 42 of the Internal Revenue Code. The developer shall be responsible for administration and affirmative marketing of the affordable units.

§225-197 New Construction.

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.

- A. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
- B. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

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