

**Pennington Borough Council  
Regular Meeting – February 2, 2026**

Mayor Davy called the Regular Meeting of the Borough Council to order at 7:03 pm. The meeting was held via Zoom. Borough Clerk Betty Sterling called the roll with Council Members Angarone, Chandler, Kassler-Taub, Rubenstein, Stern and Valenza in attendance.

Also present were Borough Clerk Betty Sterling, Borough Attorney Walter Bliss, Borough Administrator GP Caminiti, Sandra Webb, Public Works Superintendent Rick Smith and Lieutenant Daryl Burroughs.

Mayor Davy announced that notice of this meeting has been given to the Hopewell Valley News, Trenton Times, Trentonian and was posted on the bulletin board at Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act.

**Open to the Public**

Mayor Davy read the following statement.

The meeting is now open to the public for comments. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please raise your hand and when the Borough Administrator acknowledges you state your name and address for the record. Please limit comments to the Governing Body to a maximum of 2 minutes.**

There were no comments from the public.

**MAYOR’S APPOINTMENTS**

Mayor Davy announced the following appointments:

- Fred Jacobs appointed as Planning Board – Alternate 1 for a term ending December 31, 2027.
- Sara Calabi appointed as Planning Board – Alternate 2 for a term ending December 31, 2027.
- Stacey Levine appointed to Economic Development for a term ending December 31, 2030.

Mayor Davy stated that he still has vacancies on Economic Development and Parks and Recreation for anyone in the public who might be interested.

**APPROVAL OF MINUTES**

Council Member Rubenstein made a motion to approve the minutes of the Special Joint Meeting of Borough Council and the Planning Board held on December 17, 2025, second by Council Member Angarone with all members present voting in favor with the exception of Council Member Kassler-Taub who abstained.

Council Member Stern made a motion to approve the minutes of the January 6, 2026 Regular Meeting, second by Council Member Angarone with all members present voting in favor with the exception of Ms. Kassler-Taub who abstained.

Council Member Chandler made a motion to approve the minutes of the January 6, 2026 Regular Meeting, second by Council Member Angarone with all members present voting in favor.

Council Member Rubenstein made a motion to approve the minutes of the January 26, 2026 Work Session Meeting, second by Council Member Chandler with all members present voting in favor.

**ORDINANCES FOR INTRODUCTION**

Mayor Davy stated that Ordinances 2026-4 through 2026-15 that all of the Ordinances listed relate to the Borough’s Affordable Housing Plan. Mr. Bliss stated that he asked that Borough Planner attend tonight in the event that Council Members have questions.

Mayor Davy read Ordinance 2026-4 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-4**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE VII “ZONE REGULATIONS” TO INCLUDE NEW SECTION 215-78.3 ENTITLED “AH-1 AFFORDABLE HOUSING ZONE”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:

Section I. The following section shall be added to the Code, to read as follows:

*Section 215-78.3 “AH-1 Affordable Housing Zone”*

- A. Intent. It is the intent of the AH-1 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where the affordable housing units proposed are for-rent, a minimum of 15% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Where the affordable housing units proposed are for-sale, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough’s affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
  - (1) The following are principal permitted uses in the district:
    - (a) Single-family attached dwelling units/townhomes
  - (2) Accessory uses permitted.
    - (a) Off-street parking
    - (b) Signs
    - (c) Fences and walls
    - (d) Outdoor recreation facilities
    - (e) Stormwater management facilities
    - (f) Enclosures for the storage of trash and recycling
    - (g) Utilities including but not limited to transformers
    - (h) Solar panels mounted to the roof of a building
    - (i) Electric vehicle charging infrastructure and electric vehicle charging stations
- D. Bulk standards.
  - (1) The following bulk standards are required for garden apartments:
    - (a) Minimum tract area: 2 acres
    - (b) Minimum setback of building from tract boundary: 50 feet
    - (c) Minimum setback of parking from tract boundary: 25 feet
    - (d) Maximum permitted building coverage: 30%
    - (e) Maximum permitted impervious coverage: 60%
    - (f) Maximum permitted building height: 38 feet and 2 ½ stories
    - (g) Maximum number of attached units: six (6)
    - (h) Minimum distance between attached structures: 30 feet
    - (i) Minimum landscaped buffer adjacent to existing public streets: 25 feet
    - (j) More than one building per lot shall be permitted, provided that the minimum tract area is met.
- E. Other provisions and requirements.
  - (1) There shall be included in any attached single-family dwelling or townhome housing development an indoor or outdoor area for the collection and storage of residentially generated trash and recyclable materials. Where collection of trash and recyclable materials will occur for each individual unit at the curb, adequate space shall be provided within a garage area for the storage of bins for such materials. Where collection of trash and recyclable material will occur at a centralized location or locations on site, an enclosure shall be provided for the storage of such materials.
  - (2) Off-street parking shall be provided in accordance with the New Jersey Residential Site Improvement Standards.

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Chandler made a motion to introduce Ordinance 2026-4, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-5 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-5**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE VII “ZONE REGULATIONS” TO INCLUDE NEW SECTION 215-78.4 ENTITLED “AH-2 AFFORDABLE HOUSING ZONE”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:

Section I. The following section shall be added to the Code, to read as follows:

*Section 215-78.4 “AH-2 Affordable Housing Zone”*

- A. Intent. It is the intent of the AH-2 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where the affordable housing units proposed are for-rent, a minimum of 15% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Where the affordable housing units proposed are for-sale, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough’s affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
  - (1) The following are principal permitted uses in the district:
    - (a) Multifamily apartments.
  - (2) Accessory uses permitted.
    - (a) Off-street parking
    - (b) Signs
    - (c) Fences and walls
    - (d) Typical interior amenities including but not limited to fitness centers, business centers, community rooms and libraries for use by residents
    - (e) Outdoor recreation facilities
    - (f) Stormwater management facilities
    - (g) Enclosures for the storage of trash and recycling
    - (h) Utilities including but not limited to transformers
    - (i) Solar panels mounted to the roof of a building
    - (j) Electric vehicle charging infrastructure and electric vehicle charging stations
- D. Bulk standards.

- (1) The following bulk standards are required for garden apartments:
  - (a) Minimum tract area: 1 acre
  - (b) Minimum front yard setback: 15 feet
  - (c) Minimum side yard setback: 40 feet
  - (d) Minimum rear yard setback: 50 feet
  - (e) Minimum setback of parking from tract boundary: 8 feet
  - (f) Maximum permitted building coverage: 30%
  - (g) Maximum permitted impervious coverage: 70%
  - (h) Maximum permitted building height: 45 feet and 3 stories
  - (i) Maximum building length: 150 feet
  - (j) Minimum landscaped buffer adjacent to existing public streets: 10 feet
  - (k) Minimum distance from building to parking spaces: 5 feet

E. Other provisions and requirements.

- (1) There shall be included in any new multifamily housing development an indoor or outdoor area for the collection and storage of residentially generated trash and recyclable materials. Separate containers or storage bins shall be provided for both trash and recyclable materials.
- (2) Off-street parking shall be provided at a rate of 1.5 spaces per dwelling unit, regardless of the number of bedrooms in the dwelling unit.

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Rubenstein made a motion to introduce Ordinance 2026-5, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-6 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-6**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE VII “ZONE REGULATIONS” TO INCLUDE NEW SECTION 215-78.5 ENTITLED “AH-3 AFFORDABLE HOUSING ZONE”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:

Section I. The following section shall be added to the Code, to read as follows:

*Section 215-78.5 “AH-3 Affordable Housing Zone”*

- A. Intent. It is the intent of the AH-3 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where the affordable housing units proposed are for-rent, a minimum of 15% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Where the affordable housing units proposed are for-sale, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable

housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough’s affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.

C. Permitted uses on the land and in the buildings.

- (1) The following are principal permitted uses in the district:
  - (a) Multifamily apartments.
- (2) Accessory uses permitted.
  - (a) Off-street parking
  - (b) Signs
  - (c) Fences and walls
  - (d) Clubhouse and other typical amenities including but not limited to fitness centers, business centers, community rooms and libraries for use by residents
  - (e) Recreation facilities including but not limited to a pool for use by residents, tennis courts, bocce ball courts and dog parks.
  - (f) Stormwater management facilities
  - (g) Enclosures for the storage of trash and recycling
  - (h) Utilities including but not limited to transformers
  - (i) Solar panels mounted to the roof of a building
  - (j) Electric vehicle charging infrastructure and electric vehicle charging stations

D. Bulk standards.

- (1) The following bulk standards are required for single-family attached/townhome dwelling units:
  - (a) Minimum tract area: 10,000 square feet
  - (b) Minimum front yard setback: 30 feet
  - (c) Minimum side yard setback: 3 feet
  - (d) Minimum rear yard setback: 50 feet
  - (e) Minimum setback of parking from tract boundary: 2 feet
  - (f) Maximum permitted building coverage: 40%
  - (g) Maximum permitted impervious coverage: 80%
  - (h) Maximum permitted building height: 45 feet and 3 stories
  - (i) Minimum distance from building to parking spaces: 5 feet

E. Other provisions and requirements.

- (1) There shall be included in any new multifamily housing development an indoor or outdoor area for the collection and storage of residentially generated trash and recyclable materials. Separate containers or storage bins shall be provided for both trash and recyclable materials.
- (2) Off-street parking shall be provided in accordance with the New Jersey Residential Site Improvement Standards.

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Stern made a motion to introduce Ordinance 2026-6, second by Council Member Rubenstein with all members present voting in favor.

Mayor Davy read Ordinance 2026-7 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-7**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE  
VII “ZONE REGULATIONS” TO INCLUDE NEW SECTION 215-78.6 ENTITLED “AH-4  
AFFORDABLE HOUSING ZONE”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:  
Section I. The following section shall be added to the Code, to read as follows:

*Section 215-78.6 "AH-4 Affordable Housing Zone"*

- A. Intent. It is the intent of the AH-4 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households.
- B. Low and moderate income housing requirements. Where residential dwelling units are proposed, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households. All units shall comply with the Borough's affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
  - (1) The following are principal permitted uses in the district:
    - (a) Multifamily apartments.
    - (b) More than one principal building.
  - (2) Accessory uses permitted.
    - (a) Off-street parking
    - (b) Signs
    - (c) Fences and walls
    - (d) Outdoor recreation facilities for use by residents.
    - (e) Stormwater management facilities
    - (f) Enclosures for the storage of trash and recycling
    - (g) Utilities including but not limited to transformers
    - (h) Solar panels mounted to the roof of a building
    - (i) Electric vehicle charging infrastructure and electric vehicle charging stations
- D. Bulk standards.
  - (1) The following bulk standards are required for multifamily apartments:
    - (a) Minimum tract area: 10,000 square feet
    - (b) Minimum front yard setback: 8 feet
    - (c) Minimum side yard setback: 15 feet
    - (d) Minimum rear yard setback: 15 feet
    - (e) Minimum setback of parking from tract boundary: 5 feet
    - (f) Maximum permitted building coverage: 40%
    - (g) Maximum permitted impervious coverage: 80%
    - (h) Maximum permitted building height: 38 feet and 2 ½ stories
    - (i) Minimum distance from building to parking spaces: 5 feet
- E. Other provisions and requirements.
  - (1) Existing residential dwellings located on the tract to be developed are not required to comply with the bulk standards set forth in this section.
  - (2) The architecture of any proposed new building shall be compatible with the historic nature of the site and that of the Pennington Crossroads Historic District, in which it is located. Review by the Historic Commission is required.
  - (3) There shall be included in any new multifamily housing development an indoor or outdoor area for the collection and storage of residentially generated trash and recyclable materials. Separate containers or storage bins shall be provided for both trash and recyclable materials.
  - (4) Off-street parking shall be provided at a rate of 1.5 spaces per residential dwelling unit regardless of the number of bedrooms.

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Rubenstein made a motion to introduce Ordinance 2026-7, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-8 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-8**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE VII “ZONE REGULATIONS” TO INCLUDE NEW SECTION 215-78.7 ENTITLED “AH-5 AFFORDABLE HOUSING ZONE”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has identified property appropriate for rezoning to provide the opportunity for the construction of new multifamily dwellings, including a setaside of units affordable to low and moderate income households; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing the mechanism identified in that fourth round, which requires rezoning of the property.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:

Section I. The following section shall be added to the Code, to read as follows:

*Section 215-78.7 “AH-5 Affordable Housing Zone”*

- A. Intent. It is the intent of the AH-5 Affordable Housing Zone to provide the opportunity for the construction of new multifamily housing, including a setaside of units affordable to low and moderate income households, through adaptive reuse of an existing office building.
- B. Low and moderate income housing requirements. Where residential dwelling units are proposed, a minimum of 20% of the total number of units proposed shall be deed restricted for occupancy by low and moderate income households. Thirteen percent (13%) of the total affordable housing units proposed shall be restricted for very low income households. All units shall comply with the Borough’s affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- C. Permitted uses on the land and in the buildings.
  - (1) The following are principal permitted uses in the district:
    - (a) Multifamily apartments.
  - (2) Accessory uses permitted.
    - (a) Off-street parking
    - (b) Signs
    - (c) Fences and walls
    - (d) Interior amenities including but not limited to fitness centers, business centers, community rooms and libraries for use by residents
    - (e) Outdoor recreation facilities for use by residents.
    - (f) Stormwater management facilities
    - (g) Enclosures for the storage of trash and recycling
    - (h) Utilities including but not limited to transformers
    - (i) Solar panels mounted to the roof of a building
    - (j) Electric vehicle charging infrastructure and electric vehicle charging stations
- D. Bulk standards.
  - (1) The following bulk standards are required for multifamily apartments:

- (a) Minimum tract area: 10,000 square feet
- (b) Minimum front yard setback: 0 feet
- (c) Minimum side yard setback: 0 feet
- (d) Minimum rear yard setback: 0 feet
- (e) Minimum setback of parking from tract boundary: 0 feet
- (f) Maximum permitted building coverage: 80%
- (g) Maximum permitted impervious coverage: 92%
- (h) Maximum permitted building height: 45 feet and 3 stories
- (i) Maximum building length: 150 feet
- (j) Minimum distance from building to parking spaces: 0 feet

E. Other provisions and requirements.

- (1) The architecture of any proposed new building shall be compatible with the historic nature of the site and that of the Pennington Crossroads Historic District, in which it is located. Review by the Historic Commission is required.
- (2) There shall be included in any new multifamily housing development an indoor or outdoor area for the collection and storage of residentially generated trash and recyclable materials. Separate containers or storage bins shall be provided for both trash and recyclable materials.
- (3) Off-street parking shall be provided at a rate of 1.5 spaces per residential dwelling unit regardless of the number of bedrooms.

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Rubenstein made a motion to introduce Ordinance 2026-8, second by Council Member Stern with all members present voting in favor.

Mayor Day read Ordinance 2026-9 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-9**

**AN ORDINANCE AMENDING CHAPTER 215, ARTICLE VII OF THE BOROUGH CODE, ENTITLED “ZONE REGULATIONS,” BY REPLACING IN ITS ENTIRETY THE TEXT OF SECTION 215-78.2 “HMU HIGHWAY MIXED USE ZONE”**

**WHEREAS**, as part of Affordable Housing compliance, the Borough seeks to amend Chapter 215, Article VII of the Borough Code by replacing its entirety the text of Section 215-78.2 “HMU Highway Mixed Use Zone” with the text set forth below;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey, that Section 215-78.2 shall read as follows:

**§ 215-78.2 HMU Highway Mixed Use Zone**

- A) Purpose. The purpose of this zone is to steadily transform the area covered by the previous commercial-only Business Highway (B-H) and Office Business (O-B) zones into a mixed-use zone that integrates a variety of housing and commercial uses. It is envisaged that the housing will be in high density, attached, multi-story buildings providing opportunities for deed-restricted affordable housing to help meet the Borough’s fourth round obligation and non-restricted housing that is affordable to new residents wishing to join the Pennington community. It replaces the Route 31 Corridor Business Overlay zone which attempted to diversify the area it covered from large lots (65,000 sq.ft.) to smaller lots (10,000 sq.ft.) and permit uses that would create a pedestrian-oriented shopping environment consistent with the character of the surrounding community. The Overlay zone did not include housing.

- B) Building configurations permitted.
- 1) Mixed commercial and attached residences, with a maximum height of 45 feet.
    - a) No more than 3 stories
    - b) Retail and other public-facing businesses allowed only on the first (ground) floor, subject to the permitted primary, secondary, conditional, and prohibited uses in sections below.
    - c) Executive or administrative, general business and professional offices allowed on first and second floors.
    - d) No more than 24 residences per floor.
  - 2) Attached residences, including those with ground floor indoor parking
    - a) No more than 3 stories, in addition to the parking floor, with a maximum height of 45 feet.
    - b) No business or commercial uses allowed.
    - c) Not permitted to front directly on State Route 31.
  - 3) Commercial and business use only
    - a) Existing commercial and business-use buildings in the zone as of the date of approval of this ordinance may continue as they are, or be modified in the future, subject to the permitted primary, secondary, conditional, and prohibited uses in sections C, D, E and F below.
    - b) Where substantial modifications to sites are contemplated, the owner of the site is encouraged to create residential, or mixed residential and commercial buildings, on the site to help the Borough move towards a more diversified and affordable supply of housing.
- C) Design and other regulations for all buildings
- 1) All lands and uses in the H-MU Zone shall comply with the regulations set forth in the Schedule of Area, Yard and Building Regulations.
  - 2) More than one building shall be permitted on a lot, provided that the total floor area ratio and total lot coverage of the combined uses/buildings on the lot do not exceed the maximums specified for the zoning district for a use/building on an individual lot.
  - 3) All portions of all buildings on one lot shall be compatibly designed with a common architectural motif, whether constructed all at one time or in stages over a period of time. The architectural design and material surface and color of all building walls on all sides of all buildings shall be suitably finished for aesthetic purposes and shall be compatible in design and scale with the surface materials existing within the neighborhood.
  - 4) Subject to section B above, certain buildings may contain more than one principal permitted use, provided that the total floor area ratio and total building and lot coverages of the combined uses do not exceed the maximums specified for the zoning district, that each use occupies a minimum gross floor area of 500 square feet and that the combined off-street parking requirements for all uses are met.
  - 5) All buildings shall be separated by a minimum of 30 feet where any part of such separation is to be used for parking or vehicular circulation.
  - 6) Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside, except where otherwise permitted by this chapter or the code of the Borough of Pennington. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from any adjacent residential uses and must be situated within the property lines of the principal use.
  - 7) All portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs and trees and shall be maintained in good condition. In any case, no less than 35% of the area of any lot shall be so landscaped, and the landscaped area may include approved detention and/or retention basins.
  - 8) Landscaping. Any front or side yard with a parking area visible from the street shall be screened with a row of shrubs at least two feet high when mature. Street trees shall be planted along any street frontage 30 to 40 feet on center, and foundation plantings shall be included along the building facade. A landscaped or grass strip at least five feet wide shall be provided along the front and side yard property lines
  - 9) On-site circulation. Driveways with appropriate cross easements providing access between adjacent lots shall be permitted and provided where feasible. On-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
  - 10) Pedestrian access. Adequate and safe pedestrian access between uses or separate buildings in the development or on adjacent lots shall be provided, and the design of the development shall promote nonvehicular, pedestrian-friendly access, inclusive of bicycle racks, benches or other such amenities. Sidewalks shall be provided along street frontages and throughout the development.
  - 11) Sign requirements. All signage shall be in accordance with the requirements specified in Article III, Sign Regulations, and specifically § 215-44 of this chapter.
  - 12) Fences, walls and retaining walls shall be in accordance with the provisions of § 215-24.
  - 13) Roof-mounted solar panels are allowed and are encouraged.
  - 14) Geothermal heating is allowed and is encouraged.
  - 15) Affordable housing setaside. Where residential dwelling units are proposed, a minimum of 20% of the total number of units shall be deed restricted for occupancy by low and moderate income households, with half the units affordable to low income households and half affordable to moderate income households. Where an odd number of affordable units is proposed, the split shall be in favor

of low income units. A minimum of thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households and shall be counted towards the total number of low income units required. All units shall comply with the Borough's affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls, particularly with respect to required bedroom distribution. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.

- D) Permitted business and commercial primary uses. In buildings or on sites where business or commercial or use is permitted, the primary uses allowed shall be as follows:
- 1) Retail business and personal service establishments which are clearly of a community service character, such as retail shops, studios for the arts or fitness, barber shops and beauty salons.
  - 2) Restaurants, including those of a quick serve nature without a drive through window.
  - 3) Executive or administrative, general business and professional offices.
  - 4) Animal hospitals.
  - 5) Hardware stores.
  - 6) Wholesale business establishments other than cannabis wholesalers.
  - 7) Technical training centers provided all instruction is conducted indoors.
  - 8) Educational uses, other than schools and institutions of higher learning
  - 9) Child-care centers licensed by the Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.).
  - 10) Municipal services, emergency response services and Post Office
  - 11) Other business uses which in the opinion of the Planning Board acting as a Board of Adjustment are similar in scale and service nature to those permitted above.
- E) Permitted secondary and accessory uses. For buildings and sites where business or commercial use is permitted, the secondary uses allowed shall be as follows:
- 1) Municipal parks, playgrounds and buildings deemed appropriate and necessary by the Borough Council of the Borough of Pennington.
  - 2) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises in conjunction with a permitted use.
  - 3) Off-street parking for the use of employees, customers and visitors.
  - 4) Sidewalk sales by adjacent retail merchandise stores when authorized by a permit issued by the Borough Clerk.
  - 5) Signs as permitted by Article III, Sign Regulations, and specifically § 215-44.
  - 6) Make ready infrastructure and electric vehicle charging stations.
  - 7) Outdoor dining associated with a permitted restaurant use.
  - 8) Solar panels mounted to the roof of a building.
  - 9) Enclosures for the storage and collection of trash and recyclable materials.
  - 10) Outdoor recreation areas associated with permitted residential uses.
  - 11) Dog parks.
- F) Conditional business and commercial uses. The conditional uses allowed shall be as follows and shall be subject to the provisions of the indicated ordinances in Borough Code Chapter 215 Article VIII.
- 1) Public utility uses as a conditional use under N.J.S.A. 40:55D-67 (§ 215-80)
  - 2) Cannabis retailers, medical cannabis dispensaries and cannabis delivery services (§ 215-81)
  - 3) Schools and institutions of higher learning (§ 215-82)
  - 4) Scientific or research laboratories (§ 215-90)
  - 5) Health care facilities (§ 215-91)
  - 6) Banks (§ 215-95).
  - 7) Banks and financial institutions with drive-through facilities.
    - a) The drive-through facility shall be located to the rear of the building.
    - b) For queuing purposes, room for at least two automobiles per drive-through window shall be provided.
- G) Prohibited uses. Any use not hereby specifically permitted is prohibited unless approved by the Planning Board acting as a Board of Adjustment. The following uses are hereby specifically prohibited:
- 1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.
  - 2) Drive through facilities associated with a quick serve restaurant.
  - 3) No retail sales use may operate after 11:00 p.m. at night, and all site lights and signage shall be turned off at the close of business, except for a minimal amount of low-intensity security lighting specifically approved by the Planning Board.
- H) Permitted Residential Uses.
- 1) Objectives. The provisions of this subsection are intended to encourage the planning and construction of multifamily dwelling units within the H-MU Zone that meet the special needs of suburban families and at the same time protect and promote the health, safety and general welfare of the public and the Borough of Pennington.
  - 2) Qualifications. In order to qualify for consideration under the terms of this subsection, the site for any multifamily development shall be composed of a single tract of land, consisting of one or more

contiguous lots. The physical conditions of the site, including soil type, ground water level, drainage and topography, shall be such as not to create hazards to the property or to the occupants, and the site shall not be subject to the possibility of subsidence or the reasonable probability of flooding or serious erosion.

- 3) General requirements.
  - a) Access to site. Any multifamily dwelling unit site shall abut or have permanent access to an approved or existing public street. Private streets within any development shall be permitted but shall be protected by a permanent easement and shall provide for safe and suitable vehicular circulation in the development at all times. Dead-end or cul-de-sac streets shall conform to the requirements of the Residential Site Improvement Standards.
  - b) Access to buildings. Convenient vehicular access to all buildings on the attached dwelling unit development site shall be provided for emergency equipment, furniture moving vans, fuel trucks where required, garbage collection, general deliveries of goods and snow removal. Pedestrian access to the rear of all buildings fronting on a public street shall be provided.
  - c) Access to dwelling units. A safe and convenient means for pedestrian access to all dwelling units shall be provided in such manner as not to require passage through any other dwelling unit.
  - d) Services and facilities. The development of the site shall be designed so that it does not infringe upon adjoining properties. Utilities and other similar facilities shall be provided for the development without dependence upon the availability of such services on adjoining properties. All attached dwelling unit developments shall be connected to and serviced by public systems for the provision of water and disposal of sanitary and storm sewage. Such public systems shall have been determined adequate to serve the proposed development by competent authority designated by the Borough Council.
  - e) Occupancy of dwelling units. No dwelling unit shall be occupied until all other dwelling units in the same building are completed and ready for occupancy, having all utility connections completed, pedestrian and vehicular accessways improved and parking areas paved and drained as designed and a certificate of occupancy having been issued.
  - f) Compliance with other ordinances and regulations. The development shall conform to the recommendations of the Borough Master Plan regarding the creation of new streets, the widening of existing streets, drainage rights-of-way and conservation areas. Where subdivision of lands is required or desired by the developer of the attached dwelling unit development, in accordance with the provisions of Chapter 181, Subdivision of Land, the receipt of subdivision approval prior to proceedings under this chapter shall not in any way be construed to imply approval of the proposed attached dwelling unit development. Where the review and/or approval of the various elements or features of the proposed attached dwelling unit development is required to be received from any municipal, county or state agency or official, other than the Planning Board and Zoning Officer, such review and/or approval shall be obtained prior to proceedings hereunder.
- 4) Design requirements. At a minimum, all multifamily dwelling unit developments shall comply with the following design requirements and standards:
  - a) Site area. Site areas shall not be less than 20,000 square feet of usable land.
  - b) Floor area. Total floor area shall not exceed an amount equal to 80% of site area.
  - c) Coverage. Building area and related impervious surface coverage (parking areas, roads, walks, etc.) shall not exceed an amount equal to 60% of the site area.
  - d) Recreation area. Outdoor recreation space shall be provided in all developments of 30 or more units. Such outdoor recreation space shall not be less in area than an amount equal to 5% of the gross floor area of the development.
  - e) Parking spaces required. The Planning Board shall determine the number of off-street parking spaces required based on dwelling unit mix and size and related factors. Maximum requirement shall not exceed one and one half spaces per unit nor shall be less than one space per unit. The developer may elect, subject to the approval of the body conducting the site plan review, to improve only a portion of the area which has been designated for parking on the plan.
  - f) Buildings. Buildings shall not exceed 3 stories or 45 feet in height. Buildings shall not contain dwelling units above the third story nor below grade. Buildings shall be designed so that an offset of at least two feet shall occur every 50 feet of building wall.
  - g) Dwelling unit mix and density. Each development shall contain a mixture of dwelling unit types in a ratio approved by the Planning Board. Maximum gross residential density shall not exceed twenty four (24) units per acre.
  - h) Building setbacks. Building setbacks shall provide adequate distance between buildings on the site and the abutting properties. However, no such setback need exceed a distance of 50 feet.
  - i) Streets, roads, curbs, parking areas and sidewalks. All streets, roads, curbs, parking areas and sidewalks shall be constructed in accordance with Borough specifications furnished by the Borough Engineer.
  - j) Plantings. The character and appeal of the site shall be enhanced by retaining and protecting existing trees and other natural features of the site whenever possible and through the addition of new planting materials for privacy, shade, beauty of buildings and grounds, and to screen objectionable features. Plant materials to be provided shall be in scale with the composition of the buildings, the site and its various uses and surroundings. Plant materials shall be arranged to harmonize in size, shape, color, texture and winter characteristics with the buildings and development of the grounds. Plant location and spacing shall be determined by ultimate mature

growth. Plant materials shall be indigenous to the area or be readily adaptable to the local climate and soil conditions. Plant materials shall not be excessively weedy in habit or growth characteristics nor be unduly subject to noxious pests or plant diseases.

- k) Outdoor lighting. Attractive lighting fixtures for walks, steps, parking areas, streets and other facilities shall be provided at locations to assure the safe and convenient use of such facilities. Fixtures shall be placed and designed in keeping with the character of the development and be adequately shielded to reduce glare and eliminate light trespass onto adjacent properties.
  - l) Electric and telephone lines. All electric power and telephone transmission lines shall be installed underground at a depth and at such location as will minimize risk of interruption of services.
  - m) Screening. Fences, walls, shrubbery or other appropriate screening devices shall be installed around garbage and trash storage areas, parking areas, service areas and at such other locations deemed desirable or necessary by the Planning Board.
  - n) Laundry facilities. Each residential unit shall have its own laundry facilities.
- I) Off-street parking and loading requirements
- 1) Parking areas shall be located within side and rear yards, provided they are not within 15 feet of the boundary of a residence zone or street line. Driveways shall be limited to two for each 200 feet of frontage on a public street. Where multifamily dwelling units are added to existing single story buildings, existing parking areas that do not comply with this section shall be permitted to remain.
  - 2) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted within 5 feet of any property line and within 10 feet of any street line or residential zoning district, and such perimeter area shall be planted and maintained in lawn areas or ground cover and landscaped with shrubbery, except that:
    - a) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted in the front yard area between the principal building.
    - b) The Planning Board may approve off-street parking in front yard areas between principal buildings and State Highway Route 31 where the existing development on the subject property (e.g., an existing building set back an excessive distance from the abutting street right-of-way) creates a practical difficulty in locating the required off-street parking in rear and/or side yard areas, provided that:
      - (i) A minimum parking setback of 5 feet to any street line shall be provided, where feasible, and shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board; and
      - (ii) When approving the location of off-street parking in front yard areas, the Planning Board must find that parking may be located within the front yard area without adversely affecting neighboring properties.
    - c) Driveways with appropriate cross-easements providing access between adjacent lots shall be permitted and provided, where feasible; on-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
  - 3) Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together:
    - a) Retail business uses: one space for each 300 square feet of sales floor area.
    - b) Personal and business service establishments: one space for each 300 square feet of floor area.
    - c) Professional and business offices, laboratories and technical training centers: one space for each 250 square feet of floor area or part thereof.
    - d) Restaurants: one space for each four seats, plus one space for each two employees.
    - e) Wholesale business establishments: one space for each 500 square feet of building area.
    - f) Offices, laboratories and technical training centers shall provide parking at the ratio of one parking space per 250 square feet of gross floor area or part thereof
    - g) Child-care centers shall provide parking at a ratio of one parking space per employee, plus one additional parking space for every eight children.
    - h) Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together
  - 4) Parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street.
  - 5) Shared parking. Nothing in the above requirements shall be construed to prevent the employment of shared parking, which may be implemented in one of two manners:
    - (i) On-site shared parking. For parcels containing a multiple-occupant building or two or more buildings with different permitted uses, on-site shared parking may be implemented.
      - (a) A shared parking allowance of 50% shall be permitted for combining weekday uses with evening/weekend uses in the same building or in separate buildings on the same parcel. Office and retail uses are considered to be weekday uses, while residential and restaurant uses are considered to be evening/weekend uses.
      - (b) Fifty percent of the parking requirement of the evening/weekend use of the building may be met through parking already provided for the weekday use. For example, a

building contains office space that requires 20 parking spaces and residential units that require eight parking spaces. The residential parking is permitted to be reduced by 50% or four parking spaces. Therefore, the development would only be required to construct 24 parking spaces instead of 28.

- (ii) Off-site shared parking. For parcels that cannot accommodate all or a portion of their required parking spaces, the differential parking requirement may be shifted to an adjacent property determined by the Zoning Officer to have parking in excess of zoning requirements or parking that is demonstrated to be unused during normal hours of operation. This would require the submission of a memorandum of agreement between the two property owners, which demonstrates the shifting of parking spaces from one site to an adjacent site.
- J) Off-street loading requirements and provision for garbage pickup.
- 1) Each principal building or group of buildings shall provide at minimum one off-street loading space on site at the side or rear of the building or within the building. Any loading area shall have adequate ingress and egress from a public street and adequate space for maneuvering. There shall be no loading or unloading from the street or front yard area. Such space shall not infringe upon area required for off-street parking
  - 2) There shall be at least one trash and garbage pickup location on site within convenient access to and from the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Mercer County and in accordance with the following:
    - a) The trash and garbage pickup location shall be provided either within the building being served or in a pickup location outside the building;
    - b) If located within the building, the doorway may serve both the loading and trash/garbage functions, and if located outside the building, it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions;
    - c) If located outside the building, the trash and garbage pickup location shall include a fully enclosed trash and garbage container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. Enclosures shall be constructed of masonry material consistent with the architectural design of the buildings.

Council Member Rubenstein made a motion to introduce Ordinance 2026-9, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-10 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-10**

**AN ORDINANCE AMENDING BOROUGH CODE, CHAPTER 215 “ZONING,” ARTICLE VII  
“ZONE REGULATIONS” BY REPEALING AND REPLACING THE EXISTING TEXT OF  
SECTION 215-78 ENTITLED “MU MIXED USE ZONE**

**WHEREAS**, for the purpose of Affordable Housing compliance, the Borough seeks to amend Chapter 215 (“Zoning”), by replacing in its entirety the text of Section 215-78, entitled “MU Mixed Use Zone,” with the text set forth below;

**NOW, THEREFORE, BE IT ORDAINED**, by Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey, that Section 215-78, “MU Mixed Use Zone” shall read as follows:

**§ 215-78. MU Mixed Use Zone**

- K) Purpose. The purpose of this zone is to provide opportunities for small-scale mixed-use developments in locations other than the Route 31 corridor. It is envisaged that the housing will be in high density, attached, multi-story buildings providing opportunities for deed-restricted affordable housing to help meet the Borough’s fourth round obligation and non-restricted housing that is affordable to new residents wishing to join the Pennington community.
- L) Building configurations permitted.
  - 1) Mixed commercial and multifamily dwellings, with a maximum height of 45 feet.
    - a) No more than 3 stories
    - b) Retail and other public-facing businesses allowed only on the first (ground) floor, subject to the permitted primary, secondary, conditional, and prohibited uses in sections below.
    - c) No more than 8 residences per floor.
  - 2) Multifamily dwellings
    - a) No more than 3 stories with a maximum height of 45 feet.
    - b) No business or commercial uses allowed.

- M) Design and other regulations for all buildings
- 1) All lands and uses in the MU Zone shall comply with the regulations set forth in the Schedule of Area, Yard and Building Regulations.
  - 2) More than one building shall be permitted on a lot, provided that the total floor area ratio and total lot coverage of the combined uses/buildings on the lot do not exceed the maximums specified for the zoning district for a use/building on an individual lot.
  - 3) All portions of all buildings on one lot shall be compatibly designed with a common architectural motif, whether constructed all at one time or in stages over a period of time. The architectural design and material surface and color of all building walls on all sides of all buildings shall be suitably finished for aesthetic purposes and shall be compatible in design and scale with the surface materials existing within the neighborhood.
  - 4) Subject to section B above, certain buildings may contain more than one principal permitted use, provided that the total floor area ratio and total building and lot coverages of the combined uses do not exceed the maximums specified for the zoning district, that each use occupies a minimum gross floor area of 500 square feet and that the combined off-street parking requirements for all uses are met.
  - 5) All buildings shall be separated by a minimum of 50 feet where any part of such separation is to be used for parking or vehicular circulation.
  - 6) Unless otherwise specifically approved by the Board as part of a site plan application, no merchandise, product, equipment or similar material or objects shall be displayed or stored outside, except where otherwise permitted by this chapter or the code of the Borough of Pennington. Where merchandise, products, equipment or similar material or objects are approved by the Board to be displayed or stored outside, the materials shall be suitably screened to be obscured from view from any adjacent residential uses and must be situated within the property lines of the principal use.
  - 7) All portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs and trees and shall be maintained in good condition. In any case, no less than 35% of the area of any lot shall be so landscaped, and the landscaped area may include approved detention and/or retention basins.
  - 8) Landscaping. Any front or side yard with a parking area visible from the street shall be screened with a row of shrubs at least two feet high when mature. Street trees shall be planted along any street frontage 30 to 40 feet on center, and foundation plantings shall be included along the building facade. A landscaped or grass strip at least five feet wide shall be provided along the front and side yard property lines
  - 9) On-site circulation. Driveways with appropriate cross easements providing access between adjacent lots shall be permitted and provided where feasible. On-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
  - 10) Pedestrian access. Adequate and safe pedestrian access between uses or separate buildings in the development or on adjacent lots shall be provided, and the design of the development shall promote nonvehicular, pedestrian-friendly access, inclusive of bicycle racks, benches or other such amenities. Sidewalks shall be provided along street frontages and throughout the development.
  - 11) Sign requirements. All signage shall be in accordance with the requirements specified in Article III, Sign Regulations, and specifically § 215-44 of this chapter.
  - 12) Fences, walls and retaining walls shall be in accordance with the provisions of § 215-24.
  - 13) Roof-mounted solar panels are allowed and will be encouraged.
  - 14) Geothermal heating is allowed and will be encouraged.
  - 15) Historic Commission Review. For sites located within the Pennington Crossroads Historic District, review and approval of the Pennington Historic Preservation Commission is required.
  - 16) Affordable housing setaside. Where residential dwelling units are proposed, a minimum of 20% of the total number of units shall be deed restricted for occupancy by low and moderate income households, with half the units affordable to low income households and half affordable to moderate income households. Where an odd number of affordable units is proposed, the split shall be in favor of low income units. A minimum of thirteen percent (13%) of the total affordable housing units proposed shall be deed restricted for very low income households and shall be counted towards the total number of low income units required. All units shall comply with the Borough's affordable housing ordinance, Chapter 58, the Fair Housing Act and the Uniform Housing Affordability Controls, particularly with respect to required bedroom distribution. Rental affordable housing units shall be deed restricted for a minimum period of 40 years and for-sale affordable housing units shall be deed restricted for a minimum period of 30 years.
- N) Permitted business and commercial primary uses. In buildings or on sites where business or commercial use is permitted, the primary uses allowed shall be as follows:
- 1) Retail business and personal service establishments which are clearly of a community service character, such as retail shops, studios for arts and fitness, barber shops and beauty salons.
  - 2) Restaurants, excluding those of a quick serve nature.
  - 3) Executive or administrative, general business and professional offices.
  - 4) Hardware stores.
  - 5) Child-care centers licensed by the Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.).
  - 6) Other business uses which in the opinion of the Planning Board acting as a Board of Adjustment are similar in scale and service nature to those permitted above.

- O) Permitted secondary and accessory uses. For buildings within the MU zone, the secondary uses allowed shall be as follows:
- 1) Municipal parks, playgrounds and buildings deemed appropriate and necessary by the Borough Council of the Borough of Pennington.
  - 2) Garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises in conjunction with a permitted use.
  - 3) Off-street parking for the use of employees, customers and visitors.
  - 4) Sidewalk sales by adjacent retail merchandise stores when authorized by a permit issued by the Borough Clerk.
  - 5) Signs as permitted by Article III, Sign Regulations.
  - 6) Make ready infrastructure and electric vehicle charging stations.
  - 7) Enclosures for the collection and storage of trash and recyclable materials.
  - 8) Solar panels mounted to the roof of a building.
  - 9) Outdoor dining associated with a permitted restaurant use.
  - 10) Outdoor recreation areas for permitted residential uses.
  - 11) Dog parks.
- P) Conditional business and commercial uses. The conditional uses allowed shall be as follows and shall be subject to the provisions of the indicated ordinances in Borough Code Chapter 215 Article VIII.
- 1) Public utility uses as a conditional use under N.J.S.A. 40:55D-67 (§ 215-80)
- Q) Prohibited uses. Any use not hereby specifically permitted is prohibited unless approved by the Planning Board acting as a Board of Adjustment. The following uses are hereby specifically prohibited:
- 1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, cannabis retailers, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.
  - 2) Drive through facilities of any kind.
  - 3) No retail sales use may operate after 11:00 p.m. at night, and all site lights and signage shall be turned off at the close of business, except for a minimal amount of low-intensity security lighting specifically approved by the Planning Board.
- R) Permitted Residential Uses.
- 1) Objectives. The provisions of this subsection are intended to encourage the planning and construction of multifamily dwelling unit development within the MU Zone that meet the special needs of suburban families and at the same time protect and promote the health, safety and general welfare of the public and the Borough of Pennington.
  - 2) Qualifications. In order to qualify for consideration under the terms of this subsection, the site for any multifamily dwelling unit development shall be composed of a single tract of land, consisting of one or more contiguous lots. The physical conditions of the site, including soil type, ground water level, drainage and topography, shall be such as not to create hazards to the property or to the occupants, and the site shall not be subject to the possibility of subsidence or the reasonable probability of flooding or serious erosion.
  - 3) General requirements.
    - a) Access to site. Any multifamily dwelling unit development site shall abut or have permanent access to an approved or existing public street. Private streets within the site of a multifamily dwelling development shall be permitted but shall be protected by a permanent easement and shall provide for safe and suitable vehicular circulation in the development at all times. Dead-end or cul-de-sac streets shall include adequate turning space.
    - b) Access to buildings. Convenient vehicular access to all buildings on the multifamily dwelling unit development site shall be provided for emergency equipment, furniture moving vans, fuel trucks where required, garbage collection, general deliveries of goods and snow removal. Pedestrian access to the rear of all buildings fronting on a public street shall be provided.
    - c) Access to dwelling units. A safe and convenient means for pedestrian access to all dwelling units shall be provided in such manner as not to require passage through any other dwelling unit.
    - d) Services and facilities. The development of the site shall be designed so that it does not infringe upon adjoining properties. Utilities and other similar facilities shall be provided for the development without dependence upon the availability of such services on adjoining properties. All multifamily dwelling unit developments shall be connected to and serviced by public systems for the provision of water and disposal of sanitary and storm sewage. Such public systems shall have been determined adequate to serve the proposed development by competent authority designated by the Borough Council.
    - e) Occupancy of dwelling units. No dwelling unit shall be occupied until all other dwelling units in the same building are completed and ready for occupancy, having all utility connections completed, pedestrian and vehicular accessways improved and parking areas paved and drained as designed and a certificate of occupancy having been issued.
    - f) Compliance with other ordinances and regulations. The multifamily dwelling unit development shall conform to the recommendations of the Borough Master Plan regarding the creation of new streets, the widening of existing streets, drainage rights-of-way and conservation areas. Where subdivision of lands is required or desired by the developer of the multifamily dwelling unit development, in accordance with the provisions of Chapter 181, Subdivision of Land, the

receipt of subdivision approval prior to proceedings under this chapter shall not in any way be construed to imply approval of the proposed multifamily dwelling unit development. Where the review and/or approval of the various elements or features of the proposed multifamily dwelling unit development is required to be received from any municipal, county or state agency or official, other than the Planning Board and Zoning Officer, such review and/or approval shall be obtained prior to proceedings hereinunder.

- 4) Design requirements. At a minimum, all multifamily dwelling unit developments shall comply with the following design requirements and standards:
    - a) Site area. Site areas shall not be less than 20,000 square feet of usable land.
    - b) Floor area. Total floor area shall not exceed an amount equal to 80% of site area.
    - c) Coverage. Building area and related impervious surface coverage (parking areas, roads, walks, etc.) shall not exceed an amount equal to 60% of the site area.
    - d) Recreation area. Outdoor recreation space shall be provided in all developments of 30 or more units. Such outdoor recreation space shall not be less in area than an amount equal to 5% of the gross floor area of the development.
    - e) Parking spaces required. The Planning Board shall determine the number of off-street parking spaces required based on dwelling unit mix and size and related factors. Maximum requirement shall not exceed one and one half spaces per unit nor shall be less than one space per unit. The developer may elect, subject to the approval of the body conducting the site plan review, to improve only a portion of the area which has been designated for parking on the plan.
    - f) Buildings. Buildings shall not exceed 3 stories or 45 feet in height. Buildings shall not contain dwelling units above the third story nor below grade. Buildings shall be designed so that an offset of at least four feet shall occur between building segments containing no more than four dwelling units.
    - g) Dwelling unit mix and density. Each development shall contain a mixture of dwelling unit types in a ratio approved by the Planning Board. Maximum gross residential density shall not exceed twenty four (24) units per acre.
    - h) Building setbacks. Building setbacks shall provide adequate distance between buildings on the site and the abutting properties. However, no such setback shall exceed a distance of 25 feet.
    - i) Streets, roads, curbs, parking areas and sidewalks. All streets, roads, curbs, parking areas and sidewalks shall be constructed in accordance with Borough specifications furnished by the Borough Engineer.
    - j) Plantings. The character and appeal of the site shall be enhanced by retaining and protecting existing trees and other natural features of the site whenever possible and through the addition of new planting materials for privacy, shade, beauty of buildings and grounds, and to screen objectionable features. Plant materials to be provided shall be in scale with the composition of the buildings, the site and its various uses and surroundings. Plant materials shall be arranged to harmonize in size, shape, color, texture and winter characteristics with the buildings and development of the grounds. Plant location and spacing shall be determined by ultimate mature growth. Plant materials shall be indigenous to the area or be readily adaptable to the local climate and soil conditions. Plant materials shall not be excessively weedy in habit or growth characteristics nor be unduly subject to noxious pests or plant diseases.
    - k) Outdoor lighting. Attractive lighting fixtures for walks, steps, parking areas, streets and other facilities shall be provided at locations to assure the safe and convenient use of such facilities. Fixtures shall be placed and designed in keeping with the character of the development and be adequately shaded to screen the windows of dwelling units from the direct rays from the light fixtures.
    - l) Electric and telephone lines. All electric power and telephone transmission lines shall be installed underground at a depth and at such location as will minimize risk of interruption of services.
    - m) Screening. Fences, walls, shrubbery or other appropriate screening devices shall be installed around garbage and trash storage areas, parking areas, service areas and at such other locations deemed desirable or necessary by the Planning Board.
    - n) Laundry facilities. Each residential unit shall have its own laundry facilities.
- S) Off-street parking and loading requirements
- 1) Parking areas may be located within any of the required yard area, provided that they are not within 10 feet of the boundary of a residence zone or street line. Driveways shall be limited to two for each 200 feet of frontage on a public street.
  - 2) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted within 10 feet of any property line and within 10 feet of any street line or residential zoning district, and such perimeter area shall be planted and maintained in lawn areas or ground cover and landscaped with shrubbery, except that:
    - a) No parking, loading area, driveway or other structure (except for approved accessways, signs and fencing) shall be permitted in the front yard area between the principal building.
    - b) The Planning Board may approve off-street parking in front yard areas between principal buildings and a public street where the existing development on the subject property (e.g., an existing building set back an excessive distance from the abutting street right-of-way) creates a practical difficulty in locating the required off-street parking in rear and/or side yard areas, provided that:

- (i) A minimum parking setback of 5 feet to any street line shall be provided, where feasible, and shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board; and
- (ii) When approving the location of off-street parking in front yard areas, the Planning Board must find that parking may be located within the front yard area without adversely affecting neighboring properties.
- c) Driveways with appropriate cross-easements providing access between adjacent lots shall be permitted and provided, where feasible; on-site circulation systems and parking areas shall be designed to accommodate the interconnection between adjacent lots.
- 3) Each individual use shall provide parking spaces according to the following minimum provisions. Where a permitted use includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together:
  - a) Retail business uses: one space for each 300 square feet of sales floor area.
  - b) Personal and business service establishments: one space for each 300 square feet of floor area.
  - c) Professional and business offices, laboratories and technical training centers: one space for each 250 square feet of floor area or part thereof.
  - d) Restaurants: one space for each four seats, plus one space for each two employees.
  - e) Child-care centers shall provide parking at a ratio of one parking space per employee, plus one additional parking space for every eight children.
  - f) Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by computing individually the parking requirements for each different activity and adding the resulting numbers together
- 4) Parking areas for individual uses shall be designed to be interconnected with adjacent properties and shall utilize common entrance(s) and exit(s), where feasible, to minimize access points to the street.
- 5) Shared parking. Nothing in the above requirements shall be construed to prevent the employment of shared parking, which may be implemented in one of two manners:
  - (i) On-site shared parking. For parcels containing a multiple-occupant building or two or more buildings with different permitted uses, on-site shared parking may be implemented.
    - (a) A shared parking allowance of 50% shall be permitted for combining weekday uses with evening/weekend uses in the same building or in separate buildings on the same parcel. Office and retail uses are considered to be weekday uses, while residential and restaurant uses are considered to be evening/weekend uses.
    - (b) Fifty percent of the parking requirement of the evening/weekend use of the building may be met through parking already provided for the weekday use. For example, a building contains office space that requires 20 parking spaces and residential units that require eight parking spaces. The residential parking is permitted to be reduced by 50% or four parking spaces. Therefore, the development would only be required to construct 24 parking spaces instead of 28.
  - (ii) Off-site shared parking. For parcels that cannot accommodate all or a portion of their required parking spaces, the differential parking requirement may be shifted to an adjacent property determined by the Zoning Officer to have parking in excess of zoning requirements or parking that is demonstrated to be unused during normal hours of operation. This would require the submission of a memorandum of agreement between the two property owners, which demonstrates the shifting of parking spaces from one site to an adjacent site.
- T) Off-street loading requirements and provision for garbage pickup.
  - 1) Each principal building or group of buildings shall provide at minimum one off-street loading space on site at the side or rear of the building or within the building. Any loading area shall have adequate ingress and egress from a public street and adequate space for maneuvering. There shall be no loading or unloading from the street or front yard area. Such space shall not infringe upon area required for off-street parking
  - 2) There shall be at least one trash and garbage pickup location on site within convenient access of the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Mercer County and in accordance with the following:
    - a) The trash and garbage pickup location shall be provided either within the building being served or in a pickup location outside the building;
    - b) If located within the building, the doorway may serve both the loading and trash/garbage functions, and if located outside the building, it may be located adjacent to or within the general loading area(s), provided the container in no way interferes with or restricts loading and unloading functions;
    - c) If located outside the building, the trash and garbage pickup location shall include a fully enclosed trash and garbage container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of all three. Enclosures shall be constructed of masonry material consistent with the architectural design of the buildings.

Council Member Rubenstein made a motion to introduce Ordinance 2026-10, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-11 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-11**

**AN ORDINANCE AMENDING CHAPTER 215 “ZONING”, ARTICLE II “GENERAL REGULATIONS” TO INCLUDE NEW SECTION 215-9.1 ENTITLED “MANDATORY SETASIDE OF AFFORDABLE HOUSING UNITS”**

**WHEREAS**, the Borough, as part of its fourth round Housing Element and Fair Share Plan, has applied a vacant land adjustment to a portion of both its third and fourth round affordable housing obligations; and

**WHEREAS**, the Mayor and Council has endorsed the fourth round plan adopted by the Planning Board and is desirous of implementing a mechanism to capture affordable housing units in projects that are not planned at this time but may be proposed in the future.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey as follows:

Section I. The following section shall be added to the Code, to read as follows:

***Section 215-9.1 “Mandatory Setaside of Affordable Housing Units”***

- A. All residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units shall be required to setaside a minimum of 20% of the residential units be set aside for very low, low, and moderate income households, as set forth below. Where the calculation of required the setaside results in a fraction of 0.49 or less, it may be rounded down to the next whole number; fractions of 0.50 or more shall be rounded up to the next whole number.
- B. This requirement shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more. This requirement shall not apply to sites or zoning districts identified in the Fair Share Plan where standards for the set-aside of affordable housing units have already been established.
- C. All affordable housing units shall comply with the Borough’s Affordable Housing Ordinance, Chapter 58, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include but is not limited to:
  - (1) The requirement that at least thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty percent (30%) or less of median income;
  - (2) Appropriate distribution of 1-, 2-, and 3-bedroom units;
  - (3) Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units, and
  - (4) Minimum unit sizes by square footage for affordable housing units.
  - (5) The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Township, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.
- D. The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that affordable units shall be generally distributed within each building with market-rate units. The residents of the affordable units shall have full and equal access to all amenities, common areas, and recreation areas and facilities as the residents of the market-rate units. The affordable units shall be the same type of housing unit as the market rate units, meaning that a market rate building available to families shall not be developed to provide age-restricted housing units.

- E. Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
- F. Subdivision and/or site plan approval shall not be granted by the reviewing board unless the developer complies with the requirements to provide very low-, low-, and moderate-income housing pursuant to the provisions of this section. A property shall not be permitted to be subdivided so as to avoid meeting this requirement. The board may impose any reasonable conditions to ensure such compliance.
- G. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- H. Any developer subject to the requirements of this section and who provides an affordable housing setaside shall not be subject to payment of residential development fees.

**Section II. Severability**

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Pennington declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**Section III. Effective Date.**

This ordinance shall take effect immediately upon passage and publication according to law.

Council Member Rubenstein made a motion to introduce Ordinance 2026-11, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-12 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-12**

**AN ORDINANCE AMENDING CHAPTER 58 OF THE BOROUGH CODE, ENTITLED  
“AFFORDABLE HOUSING,” BY SUBSTITUTING A NEW CHAPTER OF THE SAME TITLE**

**WHEREAS**, for the purpose of Affordable Housing compliance, the Borough seeks to amend Chapter 58 of the Borough Code, entitled “Affordable Housing,” by repealing and replacing in its entirety that Chapter;

**NOW, THEREFORE, BE IT ORDAINED**, by Mayor and Council of the Borough of Pennington, in the County of Mercer and State of New Jersey, that the text of Chapter 58 of the Borough Code, entitled “Affordable Housing,” shall read as follows:

**Chapter 58. Affordable Housing**

**§ 58-1. Purpose and applicability.**

- A. The purpose of this section is to provide for and regulate affordable housing in the Borough of Pennington to address the Borough’s constitutional obligation to provide for its fair share of low- and moderate-income housing as directed by the Administrative Director of the Courts and as stipulated by P.L.2024, c. 2 and N.J.S.A. 52:27D-301 *et seq.* (the amended Fair Housing Act). N.J.A.C. 5:99-1 *et seq.*, as amended and supplemented, establishes procedures to be used by municipalities in addressing and implementing the requirements set forth in the Amended Fair Housing Act. P.L. 2024, c.2, which also established the Affordable Housing Dispute Resolution Program (“Dispute Resolution Program”), and which also provides a new process for municipalities to come into constitutional compliance with their affordable housing obligations. This chapter is intended to assure compliance with the foregoing provisions and with the regulations of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*, as amended and supplemented, including provisions for unit affordability controls as well as eligibility for very low-, low- and moderate-income households. This chapter shall apply except where inconsistent with applicable law.

**§ 58-2. Definitions.**

- A. The definitions in the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.2 shall be applicable where a term is not defined. In the event of a discrepancy between a definition in this section and UHAC, the current UHAC definition shall be applicable. The following terms, when used in this section, shall have the meanings given in this subsection:

**ACT** — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended through P.L. 2024, c.2.

**ADAPTABLE** — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

**ADMINISTRATIVE AGENT** — The individual or entity designated by the Borough and approved by the Division as pursuant to N.J.A.C. 5:99-7, responsible for the administration of affordable units in accordance with this section, and as set forth within N.J.S.A. 52:27D-321 and UHAC (N.J.A.C. 5:80-26.1 et seq.).

**AFFIRMATIVE MARKETING** — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

**AFFORDABILITY AVERAGE** — The average percentage of regional median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE** — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.S.A. 52:27D-301 et seq. and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.7, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.13, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**AFFORDABLE HOUSING PROGRAM(S)** — Any method of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, and any mechanism in a Municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE HOUSING MONITORING SYSTEM or AHMS** — The Department of Community Affairs (DCA) or 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 UNIT** — A housing unit proposed or created pursuant to the Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

**AGE-RESTRICTED UNIT** — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit. **AGENCY** — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**ALTERNATIVE LIVING ARRANGEMENTS** — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE** — A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**BARRIER-FREE ESCROW** — 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.

**BOROUGH** — The Borough of Pennington, in Monmouth County, New Jersey.

**CERTIFIED HOUSEHOLD** — A household that has been certified by an administrative agent as a very-low-income household, low-income household or moderate-income household.

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

**COAH OR THE COUNCIL** — The Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) or the Superior Court of the State of New Jersey pursuant to the New Jersey Supreme Court case known as "Mount Laurel IV.", abolished effective March 20, 2024 pursuant to Section 3 at through P.L.2024, c.2 (N.J.S.A. 52:27D-304.1).

**COMPLIANCE CERTIFICATION** — The certification issued to a municipality by the Dispute Resolution Program or by a county-level housing judge pursuant to section 3 at P.L. 2024, c. 2, that protects the municipality from exclusionary zoning litigation, including builder's remedy lawsuits, during the current round of present and prospective need and through July 1 of the year the next affordable housing round begins.

**COMPLIANT MUNICIPALITY** — A municipality that is in the process of seeking compliance certification pursuant to the directives issued by the Administrative Office of the Courts, has obtained compliance certification, or who has filed for, or has obtained, a Judgment of Compliance, Order for Repose, or other court approval pursuant to the Act.

**CONSTRUCTION** — 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.).

**CONTINUUM OF CARE or CoC** — One of the 16 local planning bodies in New Jersey that coordinate service providers and other interested parties to prevent and end homelessness, as authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11431 through 11435.

**COUNTY-LEVEL HOUSING JUDGE** — A judge appointed pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2), 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 or DEPARTMENT**— The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT** — A housing unit with health and safety code violations that requires 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.

**DEVELOPER** — Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development, including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT** — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use 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 N.J.S.A. 40:55D-1 et seq.

**DEVELOPMENT APPLICATION** — The application form and all accompanying documents required by ordinance for approval of a subdivision plat, a site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-36.

**DISPUTE RESOLUTION PROGRAM** - The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

**DIVISION** — The Division of Local Planning Services in DCA.

**EMERGENT OPPORTUNITY** — 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** — 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.

**EXCLUSIONARY ZONING LITIGATION** — 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** — 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 or AFFORDABLE HOUSING OBLIGATION** — The total of the present need and prospective need as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

**FAIR SHARE PLAN** — The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of P.L.1985, c.222 (N.J.S.A. 52:27D-301 et seq.).

**HOUSING ELEMENT** — The portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.S.A. 52:27D-301 et seq., and establishes the Borough's fair share obligation.

**HOUSEHOLD INCOME** — 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 PROJECT** — A project, or distinct portion of a project, which is designed and intended to provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

**HOUSING REGION** — A geographic area established pursuant to N.J.S.A. 52:27D-304.2b

**INCLUSIONARY DEVELOPMENT** — A development containing both affordable units and market-rate units, in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate- income households. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use, and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

**JUDGMENT OF COMPLIANCE OR JUDGMENT FOR REPOSE** — 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** — A household with a household income equal to 50% or less of the regional median income.

**LOW-INCOME UNIT** — A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM** — 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.

**MARKET-RATE UNITS** — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MODERATE-INCOME HOUSEHOLD** — A household with a household income in excess of 50% but less than or equal to 80% of the regional median income.

**MODERATE-INCOME UNIT** — A restricted unit that is affordable to a moderate-income household.

**MONI** — The no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

**MULTIFAMILY UNIT** — A structure containing five or more dwelling units.

**MUNICIPAL HOUSING LIAISON or MHL** — 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, and oversight of the authorization of individuals being provided access to the AHMS.

**MUNICIPAL HOUSING TRUST FUND** — 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, 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 as governed at N.J.A.C. 5:99-2.

**NEW CONSTRUCTION** — 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.

**NONEXEMPT SALE** — 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.

**ORDER FOR REPOSE** — 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** — The payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development.

**PRESENT NEED** — The number of substandard existing deficient housing units in the municipality currently occupied by low- and moderate-income households, which is calculated pursuant to N.J.S.A. 52:27D-329.1 et seq. Also known as the “rehabilitation obligation.”

**PRICE DIFFERENTIAL** — 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** — 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.

**RANDOM SELECTION PROCESS** — A lottery process by which currently income-eligible 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.

**REGIONAL ASSET LIMIT** — The maximum housing value in each housing region affordable to a four- person household with an income at 80% of the regional median as defined by duly adopted regional income limits published annually by the Affordable Housing Professionals of New Jersey or an entity approved by the court.

**REGIONAL CONTRIBUTION AGREEMENT or RCA** — A contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into 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** — 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** — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RENT** — 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. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT** — A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market- rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

**UHAC** — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq., as amended and supplemented.

**UHORP** — The Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

**VERY-LOW-INCOME HOUSEHOLD** — A household with a household income less than or equal to 30% of the regional median income.

**VERY-LOW-INCOME UNIT** — A restricted unit that is affordable to a very-low-income household.

**VETERAN** — A veteran as defined at N.J.S.A. 54:4-8.10.

**VETERANS' PREFERENCE** — 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** — 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.

**95/5 RESTRICTION** — 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 first non-exempt sale following the expiration of the deed restriction.

### **§ 58-3. Applicability.**

- A. The provisions of this section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Pennington pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

- B. The regulations of the Uniform Housing Affordability Controls (UHAC) at N.J.A.C 5:80-26.1 et seq. shall be applicable to such affordable housing units. In the event of a discrepancy between a regulation in this Chapter and UHAC, the applicable UHAC regulation shall be applicable.

**§ 58-4. Monitoring and Reporting Requirements.**

A. On or before February 15<sup>th</sup> of every year, the Borough will electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.

B. On or before February 15<sup>th</sup> of every year, the Borough will electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date, and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations. The Borough shall also include a report on any expression of interest, applications, or pre-applications made under the overlay zones.

C. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

**§ 58-5. Monitoring and Reporting Requirements.**

- A. The regulations for the Borough's affordable housing overlay zones are set forth in Chapter 215, Article VII of the Borough Code.
- B. The regulations in this Chapter shall apply to the overlay zones in Chapter 215, Article VII of the Borough Code unless said overlay zones specifically state otherwise.

**§ 58-6. Alternative Living Arrangements.**

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:99, and UHAC, with the following exceptions:
- (1) Affirmative marketing (N.J.A.C. 5:80-26.16). Unless stated otherwise, supportive housing units, including group homes, must comply with the affirmative marketing requirements of their respective sponsoring programs, where applicable; provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Division.
  - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4), with the exception of supportive housing units whose sponsoring program determines the unit arrangement, where applicable.
- B. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Dispute Resolution Program or the Division.
- (1) The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§ 58-7. Phasing Schedule for Inclusionary Development.**

- A. Inclusionary developments shall adhere to the project phasing requirements as set forth in UHAC, N.J.A.C. 5:80-26.1 et seq, as amended and supplemented.

**§ 58-8. New Construction.**

- A. The required income and bedroom distributions of affordable housing units, as well as additional applicable standards, shall be as set forth in UHAC, N.J.A.C. 5:80-26.1 et seq, as amended and supplemented.

- B. Low/moderate split and bedroom distribution of affordable housing units:
- (1) The fair share obligation 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. At least 13% of all restricted rental units shall be very-low-income units (affordable to a household earning 30% or less of regional median income). The very-low-income units shall be counted as part of the required number of low-income units within the development.
  - (2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
  - (3) A maximum of 30% of the Borough's Fourth Round obligation (not inclusive of bonus credits) may be met with age-restricted units. At least half of all affordable units in the Borough's plan shall be available to families.
  - (4) Unless otherwise approved pursuant to 7. below, in each affordable development, the following income distribution requirements must be satisfied by all of the restricted units in the development as well as by, considered in isolation, the restricted units that are age-restricted, the restricted units that are supportive housing, and the restricted units that are neither age-restricted nor supportive housing:
    - (a) At least 50 percent of all restricted units are low-income or very-low-income units;
    - (b) At least 50 percent of all restricted efficiency or one-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
    - (c) At least 50 percent of all restricted two-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
    - (d) At least 50 percent of all restricted three-bedroom units are low-income units or very-low-income units;
    - (e) At least 50 percent of all restricted units with four or more bedrooms, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units; and
    - (f) Any very-low-income units are 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. For example, if half of the restricted units are two-bedroom units, then half of the very-low-income units should be two-bedroom units.
  - (5) Unless otherwise approved pursuant to 7. below, in each affordable development, restricted units that are not age-restricted or supportive housing must be structured in conjunction with realistic market demands 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) No more than 20 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are efficiency or one-bedroom units;
    - (d) At least 30 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are two-bedroom units;
    - (e) At least 20 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are three-bedroom units; and
    - (f) The remainder of the restricted units, if any, are allocated at the discretion of the developer in accordance with the Borough's Housing Element and Fair Share Plan.
  - (6) Unless otherwise approved pursuant to 7. below, in each affordable development, restricted units that are age-restricted or supportive housing, except those supportive

housing units whose sponsoring program determines the unit arrangement, must be structured such that, at a minimum, the number of bedrooms within the restricted units equals the number of restricted units. For example, the standard may be met by creating a two-bedroom unit for each efficiency unit. In affordable developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must compose at least five percent of those restricted units.

- (7) The requirements of 4., 5., and 6. above must be satisfied by all restricted units in the Borough, considered in the aggregate. The individual requirements of 4., 5., and 6. above may be waived or altered for a specific affordable development with written approval from the Division if such waiver or alteration would not result in a material deviation from the municipal housing element and fair share plan. Any waiver or alteration that would result in a material deviation from the municipal housing element and fair share plan must receive written approval from a county-level housing judge.

C. Accessibility requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7, and the following:
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
- (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - (e) If not all of the foregoing requirements in Subsection b2(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit; but if all of the terms of Subsection b2(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Pennington 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 person with disabilities 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 Borough of Pennington's 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 under Subsection b2(f)(2) above shall be used by the Borough of Pennington 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 a design plan and cost estimate to the Construction Official of the Borough of Pennington for the conversion of 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 Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

[6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

D. Design:

- (1) In inclusionary developments, low- and moderate-income units shall be integrated with the market units, 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 as per N.J.A.C. 5:80-26.5.
- (2) The occupancy standards set forth at N.J.A.C. 5:80-26.5 shall be applicable regarding the design of proposed affordable housing developments.

E. Maximum 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, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of regional median income; however, municipalities may permit a maximum rent affordable to households earning no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units. In such developments, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent of the restricted units. The average rent for restricted rental units shall be affordable to households earning no more than 52% of regional median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for very-low-income, low-income and moderate-income units, provided that at least 13% of all restricted rental units shall be affordable to very-low-income households (earning 30% or less of the regional median household income), with at least half of such units made available for very-low-income families with children. Such very-low-income units shall be counted toward the minimum 50% low-income requirement to be made available for occupancy by low-income households to address the Borough's prospective need obligation. Nothing in this subsection precludes the Borough from requiring affordable developments to have at least 13 percent of restricted units be affordable to and reserved for very-low-income households.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of regional median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - (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.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - (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.
- (7) 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% of the purchase price and the Freddie Mac 30-Year Fixed Rate-Mortgage rate of interest), taxes, homeowner and private mortgage insurance and realistic condominium or homeowner association fees, do not exceed 30% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, 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.
- (8) The administrative agent shall set the initial rent for a restricted rental unit. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. For assisted living units, the combined cost of rent, food, and services may not exceed 80 percent of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4.
- (9) The maximum resale price for a restricted ownership unit, if the resale occurs prior to the one-year anniversary of the date on which title to the unit was first transferred to a certified household, is the initial purchase price. 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. 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." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3. This rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

**§ 58-9. Utilities.**

- A. Affordable units shall utilize the same type of cooling and heating sources as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program. For units constructed with State funding, an alternate utility allowance approved by DCA or the Agency must be used. For units that receive ENERGYSTAR certification, a utility allowance calculated according to an energy consumption model provided by an energy consultant with an active registration with the New Jersey Board of Public Utilities must be used, subject to approval by the administrative agent.

**§ 58-10. Occupancy Standards.**

- A. The occupancy standards set forth at N.J.A.C. 5:80-26.5 shall be applicable.
- B. In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
  - (1) Provide at least one occupant for each bedroom, except for age-restricted units;
  - (2) Provide a bedroom for every two adult occupants;
  - (3) With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants

under the age of 18 occupying any bedroom; and

- (4) Avoid placing a one-person household into a unit with more than one bedroom.

**§ 58-11. 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 requirements of this chapter for a deed-restricted control period. The minimum duration of the control period is:
- (1) Thirty years for any ownership unit created on or after December 20, 2024.
  - (2) Thirty years for any ownership unit receiving an extension of affordability controls on or after December 20, 2024, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20 years, that in combination with the original term results in 60 years of affordability.
  - (3) Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round ownership unit, including all units governed by 95/5 restrictions, sold before December 20, 2024.
  - (4) Governed by the form of UHAC in effect as of December 20, 2024, for any unit sold between December 20, 2004 and December 20, 2024, that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit, or, if existing affordability controls are being extended, on the effective date of the extension. The date of commencement must be identified in the deed restriction.
- C. For each restricted ownership unit, at initial sale, the administrative agent shall determine a preliminary recapture amount equal to the price differential between the restricted price for the unit, based on the requirements at N.J.A.C. 5:80-26.7, and the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. The initial purchaser and each successive purchaser during the control period shall execute and deliver to the administrative agent a recapture note, secured by a recapture lien evidenced by a duly recorded mortgage on the unit, obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay a recapture amount at the time of the exit sale. The recapture note and lien must be determined upon exit sale and will be equal to the price differential minus the equity share amount, or another amount determined by an ordinance of the municipal governing body, which must be less than the price differential minus the equity share amount.
- E. The affordability controls set forth in this section and within N.J.A.C. 5:80-26.1 et seq shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the unit meets all code standards upon the first transfer of title following the expiration of the deed-restricted control period provided pursuant to N.J.A.C. 5:80-26.6, as may be amended and supplemented.

**§ 58-12. Price Restrictions for Restricted Ownership Units, Homeowner's Association Fees 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 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 foregoing standards.
  - (3) The master deeds and declarations of covenants and restrictions of affordable developments shall provide no distinction between restricted units and market-rate units in the calculation of the condominium or homeowners' association fees and special assessments to be paid by low- and moderate-income purchasers and those paid by market 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.

- (4) The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit to reflect eligible capital improvements completed since they purchased the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household, that is the addition of a bedroom and/or bathroom. See Subsection 23-15(a).

**§ 58-12. Buyer Income Eligibility.**

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.8, as may be amended and supplemented. Very-low-income ownership units are reserved for households with a household income less than or equal to thirty (30) percent of regional median income. Low-income ownership units shall be reserved for households with a household income less than or equal to 50% of regional median income and moderate-income ownership units shall be reserved for households with a household income less than or equal to 80% of regional median income.
- B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Borough Committee, permit moderate-income purchasers to buy low-income units in housing markets where, as determined by the Division, units are reserved for low-income purchasers, but there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units. 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. Again, all such very-low-income units to be sold to low-income households shall retain the required pricing and pricing restrictions for very-low-income units.
- 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, taxes, homeowners' and private mortgage insurance and realistic condominium or homeowners' association fees, as applicable) does not exceed 35% of the household's eligible monthly income.

**§ 58-13. Limitations on Indebtedness Secured by Ownership Units; Subordinations.**

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall submit to the administrative agent a notice of intent to incur such indebtedness, (for example, a home equity loan or solar loan), in such form and with such documentary support as determined by 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, during a control period, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.7(c).

**§ 58-14. Capital Improvements to Ownership Units.**

- A. The owners of restricted ownership units may apply to the administrative agent to recalculate the maximum sales price for the unit to reflect eligible capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household, that is, the addition of a bedroom and/or bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- 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, or flooring) 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. 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, which shall be

subject to ten-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 owner 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 resale.

**§ 58-15. Control Periods for Restricted Rental Units.**

- A. 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 section for a deed-restricted control period. The minimum duration of the control period is set forth below. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.
- (1) Forty years for any rental unit created on or after December 20, 2024;
  - (2) Thirty years for any rental unit in a 100 percent affordable property that, on or after December 20, 2024, elects to extinguish its existing deed restriction to enter into a new deed restriction and commence refinancing and/or rehabilitation for the purpose of preservation;
  - (3) Thirty years for any other rental unit that, on or after December 20, 2024, extends its affordability controls for a new term of affordability, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20, that in combination with the original term results in 60 years of affordability;
  - (4) Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round rental unit that was issued its certificate of occupancy before December 20, 2024; and
  - (5) Governed by the form of UHAC in effect as of December 20, 2004, for any prior round rental unit that was issued its certificate of occupancy between December 20, 2004 and December 20, 2024, and that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.
- B. The control period for the restricted rental unit(s) in a development commences 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. The control period for the restricted rental unit(s) in a development continues until the end date identified in the deed restriction, or until the minimum duration has elapsed if a specific end date cannot be determined according to the terms of the deed restriction. After the end of the control period, each restricted rental unit in the development remains subject to the affordability controls of this subchapter until:
- (1) The occupant household vacates the unit, at which point affordability controls terminate; or
  - (2) The occupant household's household income is found to exceed 80 percent of the regional median income for the relevant household size, after which affordability controls terminate at the later of either the next scheduled lease renewal or in 60 days.
- C. Deeds of all real property that include restricted rental units created or extended pursuant to the existing rules shall contain deed restriction language that conforms with the requirements of this subchapter and is substantially in the form set forth at N.J.A.C. 5:80-26 Appendix E. The deed restriction must meet the following requirements:
- (1) Is to be read in accordance with the requirements of this subchapter, such that any term that directly conflicts with or circumvents the requirements of this subchapter, regardless of intention, is unenforceable, of no legal effect, and contrary to the public policy of the State;
  - (2) Is governed by the requirements of this subchapter regardless of the language ultimately utilized in the recorded deed restriction document;
  - (3) Is severable, such that invalidation of any provision due to inconsistency with these regulations will not terminate the deed restriction, but, rather, will result in the deed restriction being read to include the provision of these regulations with which the original language was inconsistent;
  - (4) Has priority over all mortgages on the property; and

- (5) Must be filed with the records office of the county in which the unit is located by the developer or owner of the restricted rental units, who then must, no later than 30 days after the commencement of the control period, provide to the administrative agent:
- i. A copy of the filed deed restriction; and
  - ii. Certification by the preparer of the deed restriction that the deed restriction conforms with all requirements of this subchapter, and that the deed restriction language at N.J.A.C. 5:80-26 Appendix E, has been included therein.
- D. Failure to record a deed restriction does not, under any circumstances, excuse a property from the requirements of this subchapter. If a development is sold by a developer prior to recording the deed restriction, the buyer is not excused from adhering to the requirements of this subchapter and any recourse shall be to recover from the seller rather than seeking to extinguish any affordability controls of the development. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the Borough shall record a preliminary instrument in the form set forth at N.J.A.C. 5:80-26 Appendix P-2, incorporated herein by reference that specifies, at a minimum, the total number of rental units to be constructed/rehabilitated, the number of restricted rental units to be constructed/rehabilitated, the anticipated numbers of restricted rental units that will be very-low-income, low-income, and moderate-income, the address(es) and parcel(s) of the property, and the anticipated timeline for completion, including projected phasing. The preliminary instrument must provide that it will be replaced by the recording of a full deed restriction prior to the issuance of the certificate of occupancy, at which point the preliminary instrument will be extinguished. The full deed restriction must be recorded prior to receiving a certificate of occupancy.
- E. A restricted rental unit shall remain subject to the affordability controls of this section and N.J.A.C. 5:80-26.1 et seq. despite the occurrence of any of the following events:
- (1) Sublease or assignment of the lease of the unit;
  - (2) Sale or other voluntary transfer of the ownership of the unit; or
  - (3) The entry and enforcement of any judgment of foreclosure or grant of a deed in lieu of foreclosure on the property containing the unit; or
  - (4) The end of the control period, until the occupant household vacates the unit or is found to be income-ineligible (found to exceed 80 percent of the regional median income for the relevant household size, after which affordability controls terminate at the later of either the next scheduled lease renewal or in 60 days).

**§ 58-16. Rent Restrictions for Rental Units; Leases.**

- A. A written lease shall be required for all restricted rental units (except for units in assisted living residences), and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. Final lease agreements are the responsibility of the landlord and the prospective tenant and all lease provisions must comply with applicable law. The landlord shall provide the administrative agent with sufficient information for preparation of a unit inventory form for entry into the centralized affordable housing unit inventory system. A copy of each lease entered into with a certified household shall be provided to the administrative agent within 10 business days after the execution of each lease.
- B. 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.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this section and N.J.A.C. 5:80-26.1 et seq.

**§ 58-17. Tenant Income Eligibility.**

- A. Tenant income eligibility shall be in accordance with 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 household income less than or equal to 30% of regional median income.
  - (2) Low-income rental units shall be reserved for households with a household income less than or equal to 50% of regional median income.

- (3) Moderate-income rental units shall be reserved for households with a household income less than or equal to 80% of regional median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, a low-income household or a 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 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 the circumstances in Subsections b1 through b5 above with the administrative agent, who shall counsel the household on budgeting.

**§ 58-18. Municipal Housing Liaison.**

- A. As required by UHAC, this section creates the position of Municipal Housing Liaison. Subject to the approval of the Division, the Borough shall appoint a municipal employee by resolution of the governing body or letter from the chief executive, and shall identify the municipal housing liaison by name and title on the municipal website. The Municipal Housing Liaison is responsible for the creation, preservation and administration of the affordable housing programs, affordable units, monitoring and reporting, and, where applicable, supervising any contracted administrative agent to ensure that they execute the practices, procedures, and standards set forth in this subchapter and within N.J.A.C. 5:80-26.1 et seq. The Municipal Housing Liaison shall successfully complete the Division's Education Program as described at N.J.A.C. 5:99-9 within the timeframes specified by the Division before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Pennington, including the following responsibilities, which may not be contracted out to the administrative agent:
- (1) Serving as Pennington's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
  - (2) Overseeing the monitoring of and reporting on the status of all proposed and completed affordable housing programs and affordable units in Pennington's Fair Share Plan and ensuring compliance with the requirements of the Amended Fair Housing Act;
  - (3) Overseeing and monitoring administrative agents within the Borough's jurisdiction to ensure compliance with the UHAC;
  - (4) Ensuring that an administrative agent is assigned to administer the sales, rentals, re-sales, and re-rentals of all deed-restricted affordable units in the Borough at all times. For units at the end of their deed-restricted control period, an administrative agent shall be available to administer the sale of all properties until such time of the first authorized non-exempt sale after controls on affordability have been in effect on the unit. Verifying, certifying, and providing monitoring and reporting information within the AHMS at such time and in such form as the Division requires. Access to AHMS shall be authorized only by the municipal housing liaison, or their designee, which shall be a municipal employee. Information regarding specific characteristics of municipal affordable housing projects or programs and the resulting unit completions may be entered into AHMS by a contracted entity other than the municipal housing liaison with the written approval of the Borough and pursuant to the oversight of the municipal housing liaison. Monitoring reports shall include the information described at N.J.A.C. 5:99-5.2 and N.J.A.C. 5:99-5.3. Monitoring reports for

each calendar year shall be in the form of a certification specifying that all information provided in the AHMS is complete, accurate, and current through the most recent calendar year and shall be accompanied by a year-end bank or other financial institution statement that will be used to reconcile municipal reporting. Municipal monitoring information certifications shall be submitted by the municipal housing liaison, or their designee, which shall be a municipal employee, through the AHMS, by February 15 of each year for trust fund activity through December 31 of the previous year;

- (5) Listing, on the municipal website, contact information for the administrative agent for each completed project with an affordable component within the Borough;
  - (6) Overseeing the coordination of meetings with affordable housing providers, developers, municipal officials, and administrative agents, as needed; and
  - (7) Where applicable, providing to an administrative agent a copy of the adopted municipal operating manual(s), housing element and fair share plan, and ordinances relating to the creation and administration of the Borough's affordable housing programs and/or affordable units.
- C. The municipal housing liaison may also serve as the administrative agent pursuant to N.J.A.C. 5:99-7 for some or all of the affordable units in the Borough, subject to the submission of qualifications to the Division, successful completion of the Division's Education Program as described at N.J.A.C. 5:99-9, and approval by the Division. These duties of the municipal housing liaison shall be outlined in the municipal ordinance establishing the position of the municipal housing liaison. All applicable tasks not performed by the municipal housing liaison, shall be contracted to an administrative agent pursuant to N.J.A.C. 5:99-7.
- D. The Division shall monitor the performance of any approved municipal housing liaison and may revoke said approval, should the Division find that the municipal housing liaison has failed to administer the Borough's affordable housing programs and/or affordable units in accordance with the rules of the Division pursuant to N.J.A.C. 5:99-5.6.

**§ 58-18. Administrative Agent.**

- A. The Borough shall designate or approve, for each affordable housing project or program within its fair share plan, an administrative agent to administer the affordable housing program and/or affordable units in accordance with the requirements of the Amended Fair Housing Act, the Program, this chapter, and the UHAC. The administrative agent may be the municipal housing liaison, the RCA administrator, other municipal employee, or a person or entity selected pursuant to the UHAC. Administrative agents shall be approved through the municipal housing liaison (if the prospective administrative agent is an individual other than the current municipal housing liaison), and designation of administrative agents is also subject to approval by the Division.
- B. Qualified administrative agents shall have been certified as required pursuant to N.J.S.A. 52:27D-321, shall have evidence of satisfactory completion of the Division's Education Program as described at N.J.A.C. 5:99-9; and shall have submitted all other required information to the Division.
- C. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth at N.J.A.C. 5:99-7 and set forth in UHAC, and in accordance with the requirements of the Fair Housing Act. The Division and the municipal housing liaison shall monitor the performance of all approved administrative agents for compliance with this chapter. In the event the administrative agent does not administer the Borough's affordable housing program and/or affordable units in accordance with the certificate of compliance, municipal ordinance, or the Division's rules, the Division may revoke its approval and/or require the Borough to retain a different administrative agent. The Division reserves the right to revoke approval of an administrative agent for other compelling circumstances.
- D. The primary responsibility of the administrative agent is to ensure that the restricted units under administration are sold or rented, as applicable, only to very-low, low-, and moderate-income households in accordance with the provisions of the UHAC. The administrative agent is also responsible for the following:
  - 1. Affirmative marketing:
    - (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Pennington and the provisions of N.J.A.C. 5:80-26.16; and
    - (2) Designate an experienced staff person to provide 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.

2. Household certification:
  - (1) Soliciting, scheduling, conducting and following up on applications and/or interviews with interested households;
  - (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very low-, low- or moderate-income household;
  - (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
  - (4) 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 Appendixes J and K of N.J.A.C. 5:80-26.1 et seq.;
  - (5) 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; and
  - (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Pennington when referring households for certification to affordable units. It is noted that supportive housing units, including group homes, must also comply with the selection processes of their respective sponsoring programs, where applicable.
  - (7) Subject to the approval of the municipal housing liaison, administrative agents may grant a waiver of the income qualification requirement for units where a buyer has not been identified for an extended period of time and where the administrative agent has developed a set of criteria to determine that a waiver is necessary due to a lack of qualified applicants. This waiver shall not change the deed restriction in any way on the unit and the next sale shall be conducted according to the applicable rules.
3. Affordability controls:
  - (1) Furnishing to attorneys or closing agents appropriate forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - (2) 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;
  - (3) Subject to prior written approval from the municipal housing liaison, ensuring that the removal of the deed restrictions and cancellation of the mortgages are effectuated and properly filed with the Monmouth County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit as set forth in N.J.A.C. 5:80-26.1 et seq.;
  - (4) Communicating with lenders regarding foreclosures; and
  - (5) Ensuring the issuance of continuing certificates of occupancy or certifications from municipal building inspectors, pursuant to N.J.A.C. 5:80-26.11.
  - (6) Exercising appropriate authority to discharge and release any or all instruments, as set forth in the UHAC appendices establishing affordability controls;
4. Resales and re-rentals:
  - (1) Instituting and maintaining an effective means of communicating information between owners of affordable units and the administrative agent regarding the availability of their restricted units for resale or re-rental; and
  - (2) Instituting, maintaining, and documenting an effective means of communicating information to very low-, low- and moderate-income households regarding the availability of restricted units for resale or re-rental, inclusive of listings on the New Jersey Housing Resource Center pursuant to N.J.S.A. 52:27D-321.6.;
  - (3) Sending annual mailings to owners as prescribed for in the UHAC at N.J.A.C. 5:80-26.19;
5. Processing requests from unit owners:
  - (1) Reviewing and approving requests for determination from owners of restricted units who

wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this section;

- (2) Reviewing and approving requests to increase the maximum 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 installed subsequent to the initial sale of the unit;
  - (3) Notifying the Borough of an owner's intent to sell a restricted 95/5 unit, as defined in the UHAC at N.J.A.C. 5:80-26.2 ; and
  - (4) Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
- (1) Securing annually from the Borough a list of all affordable housing units for which 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 Borough's Affordable Housing Trust Fund; and
  - (5) Creating and publishing a written operating manual as set forth at N.J.A.C. 5:99-7.2 in plain English and in such other languages as may be appropriate to serving the respective client base for each affordable housing program, to be approved by the municipal housing liaison. The operating manual, administered by the administrative agent and to be approved by the Borough Council, shall set forth procedures for administering the affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants set forth in the UHAC appendices, consistent with the provisions at N.J.A.C. 5:80-26.19; and for releasing restricted units promptly at the conclusion of applicable control periods. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth at N.J.A.C. 5:80-26.17.
7. Additional responsibilities:
- (1) The administrative agent shall have the authority to take all actions necessary and appropriate, as permitted by law, to carry out its responsibilities as set forth in this chapter, N.J.A.C. 5:99-7, and N.J.A.C. 5:80-26.1 et seq.
  - (2) The administrative agent shall prepare annual reports for submission to the Municipal Housing Liaison and the Division by February 15 of each calendar year, including a detailed description of completed units and any other information necessary for the Borough to produce its status report as required pursuant to N.J.S.A. 52:27D-329.4.
  - (3) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**§ 58-19. Affirmative Marketing Requirements.**

- A. The Borough of Pennington shall adopt by resolution an Affirmative Marketing Plan, subject to review by the Division, that is compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
- B. The Affirmative Marketing process 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, English-speaking ability, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5.1 et seq. and age-restricted units as permitted by 42 U.S.C. § 3601 et seq.), number of children,

source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 5.50, to housing units that are being marketed by a developer, sponsor or owner of affordable housing. Unless stated otherwise, supportive housing units must comply with the affirmative marketing requirements of their respective sponsoring programs, where applicable. The Affirmative Marketing process is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Borough's 2026 mediation agreement with FSHC, the Affirmative Marketing Plan shall require the notification to Fair Share Housing Center; New Jersey State Conference of the NAACP; Latino Action Network; STEPS, Ocean, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP; and the Supportive Housing Association. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/ or work in Housing Region 4, comprised of Mercer, Monmouth, and Ocean Counties.
- D. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The administrative agent designated by the Borough of Pennington shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units, including accepting applications and maintaining a list of applicants for each affordable development. The administrative agent shall document and report the affirmative marketing plan for the Borough and the affirmative marketing activities undertaken for each of the units within their purview to the municipal housing liaison, who shall ensure that developers and administrative agents are marketing units in accordance with the provisions in this section. The marketing of restricted units must be consistent with the affirmative marketing plan adopted by the Borough.
- E. In implementing the Affirmative Marketing Plan, the administrative agent shall designate an experienced staff person to 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. Implementation of the affirmative marketing plan by the administrative agent should also include all other required provisions set forth at N.J.A.C. 5:80-26.16(f).
- F. The Affirmative Marketing Plan shall contain all the components (i.e. housing project information, eligibility/selection criteria, strategies and mediums of advertising, timelines) required as set forth within N.J.A.C. 5:80-26.16, subsections (d) and (e) in particular. In implementing the Affirmative Marketing Plan, the administrative agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy and may begin before construction commences. All affirmative marketing advertising and outreach activities utilized must be employed at the start of the marketing program.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and the County Library for each county within the housing region; the municipal administration building and the municipal library in the Borough; and the developer's office. The Borough shall post the application links and/or notices of affordable housing either directly on the home page of the Borough's official website or on a landing page directly, clearly, and conspicuously linked to from the home page of the Borough's official website. Preapplications shall be emailed or mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, which shall be a condition of approval for any such affordable housing application before the Borough's Land Use Board.

**§ 58-20. Appeals.**

- A. Appeals from all decisions of an administrative agent appointed pursuant to this section and N.J.A.C. 5:80-26.1 et seq. shall 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.

Council Member Rubenstein made a motion to introduce Ordinance 2026-12, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2026-13 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-13**

**AN ORDINANCE AMENDING CHAPTER 98, ARTICLE I OF THE BOROUGH CODE,  
ENTITLED “AFFORDABLE HOUSING DEVELOPMENT FEES, BY REPLACING THE TEXT OF  
THAT ARTICLE IN ITS ENTIRETY**

**WHEREAS**, consistent with various amendments to the Borough Code as part of the Borough’s fourth round Housing Element and Fair Share Plan, Borough Council seeks to amend Chapter 98, Article 1 of the Borough Code, establishing standards for the collection, maintenance and expenditure of development fees in accordance with State statute and regulation, and replacing in its entirety that text of Article I as set forth below;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey, that Article I of Chapter 98, concerning Affordable Housing Development Fees, shall read as follows:

**Chapter 98. Fees.**

Article I Affordable Housing Development Fees

**§ 98-1. Purpose and applicability.**

- A. This chapter establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations set forth in P.L., 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L., 2008, c. 46, Sections 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this chapter shall be used for the sole purpose of providing very-low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.
- B. Pursuant to P.L.2024, c. 2, the authority relating to rulemaking on the collection of residential and non-residential development fees is appropriately delegated to the Department of Community Affairs, following the abolition of COAH, effective March 20, 2024. As such, municipalities which have obtained or are in the process of seeking compliance certification may retain and expend these development fees.
- C. The purpose of this chapter is to establish standards for the collection, maintenance and expenditure of development fees pursuant to the above. Fees collected pursuant to this chapter shall be used for the sole purpose of providing low- and moderate-income housing.

**§ 98-2. Definitions.**

- A. The definitions in the Uniform Housing Affordability Controls (UHAC) at N.J.A.C 5:80-26.2 and N.J.A.C. 5:99 shall be applicable where a term is not defined. In the event of a discrepancy between a definition in this section and UHAC and N.J.A.C. 5:99, the current UHAC or N.J.A.C. 5:99 definition shall be applicable. The following terms, as used in this chapter, shall have the following meanings:

**ACT** — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended through P.L. 2024, c.2.

**ADMINISTRATIVE AGENT** — The individual or entity designated by the Borough and approved by the Division to administer affordable units in accordance with this chapter, the regulations of the amended Fair Housing Act (P.L.1985, c. (N.J.S.A. 52:27D-301 et seq.)), as designated pursuant to N.J.A.C. 5:99-7, and the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26 et seq.

**AFFORDABLE** — A sales price or rent level that is within the means of a very low-. low- or moderate-income household as defined within N.J.S.A. 52:27D-301 et seq., and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.7, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.13, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**AFFORDABLE HOUSING PROGRAM(S)** — Any method of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, and any mechanism in a municipal fair share plan prepared or implemented to address a municipality’s fair share obligation.

**AFFORDABLE HOUSING MONITORING SYSTEM or AHMS** — The Department of Community Affairs (DCA) or 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 UNIT** — A housing unit proposed or created pursuant to the Fair Housing Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

**BOROUGH** — The Borough of Pennington, in Monmouth County, New Jersey.

**COAH OR THE COUNCIL**— The New Jersey Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), prior to its abolition effective March 20, 2024 through P.L.2024, c.2.

**COMPLIANCE CERTIFICATION** — The certification issued to a municipality by a county-level housing judge pursuant to section 3 at P.L. 2024, c. 2, 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 affordable housing round begins, which is also known as a "judgment of compliance" resulting in an "order for repose." The term "compliance certification" includes a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).

**DCA or DEPARTMENT** — The State of New Jersey, Department of Community Affairs.

**DEVELOPER** — 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 FEE** — Money paid by a developer for the improvement of residential and non-residential property as authorized pursuant to 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3, *Holmdel Builder's Association v. Holmdel Borough*, 121 N.J. 550 (1990) and the Fair Housing Act, as amended, N.J.S.A. 52:27D-301 et seq., and regulated by applicable COAH Rules.

**DISPUTE RESOLUTION PROGRAM** — The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Executive Branch of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

**DIVISION** — The Division of Local Planning Services within the Department of Community Affairs.

**EMERGENT OPPORTUNITY** — 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**— 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 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c). Estimates at the time of issuance of a building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

**FAIR SHARE OBLIGATION** — The total of the present need and prospective need as determined by a court of competent jurisdiction.

**GREEN BUILDING STRATEGIES** — Those 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.

**HOUSING PROJECT** — A project, or distinct portion of a project, which is designed and intended to provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

**MIXED USE DEVELOPMENT** — 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.

**MUNICIPAL AFFORDABLE HOUSING TRUST FUND** — 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, 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.

**NEW JERSEY AFFORDABLE HOUSING TRUST FUND** — An account established pursuant to N.J.S.A. 52:27D-320.

#### **NON-RESIDENTIAL DEVELOPMENT**

1. 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;
2. Hotels, motels, vacation timeshares, and child-care facilities; and
3. 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** — The fee authorized to be imposed pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7.)

**PAYMENT IN LIEU OF CONSTRUCTING AFFORDABLE UNITS** — The payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development.

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

**RESIDENTIAL DEVELOPMENT FEE** — 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.

**SPENDING PLAN** — A plan to predict funds that will be paid into a municipality's affordable housing trust fund and to allocate how those funds will be spent to advance the interest of low and moderate income households subject to limitations required by law.

### **§ 98-3. Residential Development Fees.**

#### **A. Imposition of Fees.**

- (1) Within the Borough of Pennington, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new 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) 1.5% of the increase in equalized assessed value (EAV) due to expansion, full or partial demolition and reconstruction, improvement, and/or alteration of any dwelling unit, which results in a 10% or greater increase in floor area.
- (3) 1.5% of the increase in equalized assessed value (EAV) due to the construction, expansion, full or partial demolition and reconstruction, improvement, and/or alteration of any accessory building other than a shed or gazebo.
- (4) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70(d)(5), developers shall be required to pay a "bonus" development fee of 6% 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.

#### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.**

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Borough of Pennington, shall be exempt from the payment of development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this chapter 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 site plan approval is not applicable, the issuance of a zoning permit and/or construction 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) The expansion, full or partial demolition and reconstruction, improvement, and/or alteration of any dwelling unit which results in less than a ten-percent increase in floor area shall be exempt. The expansion, full or partial demolition and reconstruction, improvement, and/or alteration of any dwelling unit which results in greater than a ten-percent increase in floor area shall pay a development fee of 1.5% of the increase in equalized assessed value of the property.
- (4) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (5) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
- (6) Structural alterations that do not increase gross floor area of a building or structure or increase the equalized assessed value of a property shall be exempted from paying a development fee.
- (7) Nonprofit organizations constructing residential projects which have received tax-exempt status pursuant to § 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- (8) Federal, state, county and local governments shall be exempted from paying a development fee.
- (9) Homes replaced as a result of a natural disaster, fire or flood shall be exempt from the payment of a development fee. (This exemption applies only for the owner of record at the time of the fire, flood, or natural disaster.)

#### § 98-4. Nonresidential Development Fees.

##### A. Imposition of Fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Within all zoning districts, nonresidential developers, except for developers of the types of developments specifically exempted below, 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 nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting 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 nonresidential development fee shall be zero.

##### B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.

- (1) The nonresidential 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% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Nonresidential 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 nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the nonresidential development, whichever is later.

- (5) If a property which was exempted from the collection of a nonresidential 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 nonresidential development fees under these circumstances may be enforceable by the Borough of Pennington as a lien against the real property of the owner.
- (6) Federal, state, county and local governments constructing nonresidential housing shall be exempted from paying a development fee.

**§ 98-5. Collection of Fees.**

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a construction permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption," to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the 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 construction permit shall notify the Borough Tax Assessor of the issuance of the first construction permit for a development which is subject to a development fee.
- D. Within 21 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Borough 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 Borough of Pennington 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. Unless otherwise provided within these requirements, 50% of the initially calculated 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 the certificate of occupancy.

**§ 98-6. 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 the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Pennington. 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, N.J.S.A. 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 nonresidential 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 Borough of Pennington. 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.

**§ 98-7. Affordable Housing Trust Fund.**

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Pennington for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by ordinance or by agreement with the Borough of Pennington
  - (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 Pennington's affordable housing program.
- C. In the event of a failure by the Borough of Pennington to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Pennington, or, if not practicable, then within the County or the Housing Region.
- (1) Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund or impose such other remedies as may be reasonable and appropriate to the circumstances.
- D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

**§ 98-8. Use of Funds.**

- A. Funds deposited in the housing trust fund may be used for any eligible activity as set forth in the amended Fair Housing Act (N.J.S.A. 52:27D-301 *et seq.*), N.J.A.C. 5:99-2, and for any housing activity as approved by the Dispute Resolution Program pursuant to N.J.S.A. 52:27D-329.2.a(4) to address the municipal fair share or by the Division pursuant to N.J.S.A. N.J.A.C. 5:99-4. Such activities include, but are not limited to:
- (1) A rehabilitation program whose purpose is to renovate deficient housing units that are occupied by low- and moderate-income households, in accordance with the New Jersey State Housing Code, N.J.A.C. 5:28, or the requirements of the Rehabilitation Subcode, N.J.A.C. 5:23-6, as applicable, and costs related to the rehabilitation of the unit. Any recaptured funds from a rehabilitation program shall be deposited into the Borough's affordable housing trust fund and subject to the provisions thereof;
  - (2) New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
  - (3) Creation of a market to affordable program to pay down the cost of unrestricted units and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households to address all or a portion of the affordable housing obligation;
  - (4) Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
  - (5) RCAs, approved prior to July 17, 2008;
  - (6) Acquisition and/or improvement of land to be used for affordable housing;
  - (7) Accessory dwelling units;
  - (8) The extension of expiring controls;
  - (9) The construction of group homes and supportive and special needs housing;
  - (10) Maintenance and repair of affordable housing units;
  - (11) To defray the costs of structured parking; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
  - (12) Affordability assistance in accordance with N.J.A.C. 5:99-2.5;
  - (13) Repayment of municipal bonds issued to finance low- and moderate-income housing activity;
  - (14) Any other activity as specified in the approved spending plan or as approved by the Division as an emergent affordable housing opportunity; or
  - (15) Any other activity approved by the Division
- B. Until a new spending plan is approved pursuant to the declaratory judgement action filed in accordance with the amended Fair Housing Act, the Borough shall be entitled to expend funds from the housing trust

fund in accordance with its Third Round Court Approved Spending Plan or in accordance with the Fair Housing Act as amended in March 2024.

- C. At least 30% 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 pursuant to N.J.S.A. 52:27D-329.1 and in accordance with N.J.A.C. 5:99-2.5. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of regional median income by region.
  - (1) Affordability assistance programs include, but are not limited to, downpayment assistance, security deposit assistance, low-interest loans, and rental assistance.
  - (2) Affordability assistance to households earning 30% or less of regional median income may include offering a subsidy to developers of inclusionary or 100 percent affordable housing developments 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 regional median income, including special needs and supportive housing opportunities.
- D. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance or any program or activity for which the Borough expends development fee proceeds, in accordance with N.J.S.A. 52:27D-301 *et seq.* and N.J.A.C. 5:99-1 *et seq.*
- E. No more than 20% of the revenues collected from development fees each year shall be expended on administration in accordance with N.J.A.C. 5:99-2.4. Administrative expenses may include costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan and may include fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Program, including, but not limited to, the costs to the Borough of resolving a challenge pursuant to the Program. Administrative expenses may also include costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements. The proportion of a municipal employee's salary related to the MHL or RCA administrator functions and fees for required educational programs, may be paid as an administrative expense from the municipal affordable housing trust fund.

**§ 98-9. Monitoring.**

- A. Pennington shall comply with the monitoring and reporting requirements set forth in N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.4, and as set forth at N.J.A.C. 5:99-5.

**§ 98-10. Ongoing Collection of Fees.**

- A. The ability for the Borough of Pennington to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Compliance Certification unless the Borough of Pennington has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for an Amended Compliance Certification from the Court.
- B. If the Borough of Pennington fails to renew its ability to impose and collect development fees prior to the expiration of its Compliance Certification, 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 N.J.S.A. 52:27D-320.

Council Member Stern made a motion to introduce Ordinance 2026-13, second by Council Member Rubenstein with all members present voting in favor.

Mayor Davy read Ordinance 2026-14 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-14**

**AN ORDINANCE ADOPTING A REVISED ZONING MAP AND AMENDING ARTICLE VII,  
SECTION 216-64 OF THE BOROUGH CODE ENTITLED "ZONING MAP"**

**WHEREAS**, consistent with amendments to the Borough Code as part of the Borough's fourth round Housing Element and Fair Share Plan, Borough Council seeks to adopt a revised Zoning Map pursuant to an amended Section 215-64 of the Code;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, in the County of Mercer and State of New Jersey, as follows:

1. Section 215-64 of the Borough Code, concerning the Zoning Map, as hereby amended (with deletions crossed out and new language underlined) as follows:

§ 215-64 **Zoning Map.**

The boundaries of all zone districts shall be shown on a map attached to and made a part of this chapter and titled "Zoning Map," dated ~~July 2014~~ March 2026. [effective date of this ordinance] Said map and all notations and references thereon are hereby incorporated into and declared to be a part of this chapter.<sup>[1]</sup>

2. The referenced Zoning Map dated March 2026 [effective date of this ordinance] in the form attached to this Ordinance is hereby adopted and substituted for the July 2014 map.
3. This Ordinance shall take effect immediately upon passage and publication as prescribed by law.

Council Member Stern made a motion to introduce Ordinance 2026-14, second by Council Member Rubenstein with all members present voting in favor.

Mayor Davy read Ordinance 2026-15 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-15**

**AN ORDINANCE ADOPTING A REVISED SCHEDULE OF AREA, YARD AND BUILDING REGULATIONS, AND AMENDING ARTICLE VII, SECTION 216-66 OF THE BOROUGH CODE**

**WHEREAS**, consistent with amendments to the Borough Code as part of the Borough’s fourth round Housing Element and Fair Share Plan, Borough Council seeks to adopt a revised Schedule of Area, Yard and Building Regulations, in accordance with an amended Section 215-66 of the Code identifying the revised Schedule by date of adoption;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, in the County of Mercer and State of New Jersey, as follows:

1. Section 215-66 of the Borough Code, concerning the Schedule of Area, Yard and Building Regulations, is hereby amended (with deletions crossed out and new language underlined) as follows:

§ 215-66 **Schedule of Area, Yard and Building Regulations.**

The Schedule of Area, Yard and Building Regulations dated March 2026 [effective date of this ordinance] sets forth the regulations of this chapter with respect to minimum lot size, yard widths, maximum lot coverage, maximum height and minimum floor area for each of the various zones. Unless modified elsewhere in this chapter, such standards shall be deemed to be the minimum requirements or maximum intensity permitted to each of the several zones.

2. The referenced Schedule of Area, Yard and Building Regulations, dated March 2026 [effective date of this ordinance] in the form attached to this Ordinance is hereby adopted and substituted for the previous Schedule.
3. This Ordinance shall take effect immediately upon passage and publication as prescribed by law.

Council Member Rubenstein made a motion to introduce Ordinance 2026-15, second by Council Member Stern with all members present voting in favor.

**ORDINANCES FOR PUBLIC HEARING AND ADOPTION**

Mayor Davy read Ordinance 2026-1 by title.

**BOROUGH OF PENNINGTON  
COUNTY OF MERCER**

**ORDINANCE NO. 2026 -1**

**AN ORDINANCE INCREASING RATES CHARGED BY THE PENNINGTON BOROUGH WATER AND SEWER UTILITY, AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON**

**WHEREAS**, the Pennington Borough Water and Sewer Utility continues to incur increased costs;

**WHEREAS**, Borough Council of the Borough of Pennington has determined that as a result of these increased costs the rates charged by the Utility for water and sewer services must be increased and the rates must be further differentiated for customers based on amount of usage;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington as follows:

1. **Section 98-41 of the Code, concerning base and usage charges for water and sewer customers, is hereby amended as follows (with language in brackets deleted, new language underlined and percentage changes indicated in parenthesis):**

A. There are hereby established the following quarterly charges for water customers:

Meter Size (inches)	Base Charge [4,000] <u>2,000</u> Gallons or less	First Excess Usage Block Charge [4001] <u>2,001</u> -20,000 Gallons (per 1,000 Gallons)	Second Excess Usage Block Charge 20,001-60,000 Gallons (per 1,000 Gallons)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons)	Fourth Excess Usage Block Charge More than 200,000 Gallons
Less than 1	[\$51.87] <u>\$53.43</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>
1	[\$79.19] <u>\$81.57</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>
2	[\$226.23] <u>\$233.02</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>
3	[\$504.67] <u>\$519.81</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>
4	[\$695.34] <u>\$716.20</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>
6	[\$1,385.90] <u>\$1,427.48</u>	[\$7.64] <u>\$7.87</u>	[\$9.09] <u>\$9.36</u>	[\$9.98] <u>\$10.08</u>	[\$11.67] <u>\$12.02</u>

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

Base Charge [4,000] <u>2,000</u> Gallons or Less	First Excess Usage Block Charge [4,001] <u>2,001</u> -20,000 Gallons (per 1,000 Gallons)	Second Excess Usage Block Charge 20,001-60,000 Gallons (per 1,000 Gallons)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons)	Fourth Excess Usage Block Charge More than 200,000 Gallons (per 1,000 Gallons)
[\$58.87] <u>\$60.64</u>	[\$8.36] <u>\$8.61</u>	[\$10.03] <u>\$10.33</u>	[\$10.78] <u>\$11.10</u>	[\$11.59] <u>\$11.94</u>

NOTE: Usage charges are per one-thousand-gallon increment, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the Borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the Borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the Borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on January 31, April 30, July 31, and October 31.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

3. This ordinance shall take effect upon its passage and publication as provided by law except the rate changes provided for herein shall be first effective in the quarter beginning April 1, 2026.

Mr. Bliss read a change clarifying that rates will be effective April 1, 2026 into the record. Council Member Chandler made a motion to Introduce Ordinance 2026-1 as amended, second by Council Member Stern with all members present voting in favor.

Council Member Rubenstein made a motion to open the Public Hearing on Ordinance 2026-1, second by Council Member Chandler. There were no comments from the public. Council Member Rubenstein made a motion to close the Public Hearing, second by Council Member Stern with all members present voting in favor. Mayor Davy briefly explained that the water/sewer utility is preparing for some large infrastructure projects including lead line replacements and PFAS remediation. Mayor Davy stated that this rate increase comes from a financial analysis that was done by our consultant and will help mitigate the impact of these costs going forward. Council Member Rubenstein made a motion to adopt Ordinance 2026-1, second by Council Member Chandler with all members present voting in favor.

Mayor Davy read Ordinance 2026-2 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-2**

**ORDINANCE GOVERNING USE OF THE BOROUGH MESSAGE BOARD**

**WHEREAS**, Borough Council seeks to establish rules governing access to the Borough’s mobile electronic message board to ensure its effectiveness in facilitating direct communication of governmental information to the public as well as in promoting events and activities sponsored by governmental and 501c3 non-profit organizations;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington, that the Code of the Borough of Pennington is hereby amended by the addition of a new Chapter 129, Message Board, which shall read as follows:

1. The Borough has acquired a mobile electronic message board to permit direct communication of governmental information and messaging to the public while serving as well to promote events and activities of governmental and 501c3 non-profit organizations. Use of the message board shall be limited to these purposes.
2. Access to the Message Board will be granted upon application to the Superintendent of Public Works, on a first-come first-served basis, with the exception that governmental messages and Borough-sponsored events and activities will be given priority.
3. An application for approval must be delivered to Borough Hall, 30 North Main Street, at least five (5) business days before the first Monday of the month (the date of the regular monthly meeting of Borough Council) in advance of the requested posting.
4. An acceptable post shall consist of three (3) displays of up to three (3) lines each with a maximum of nine to ten (9-10) characters per line. The post will be displayed up to seven (7) consecutive days. All proposed postings are subject to editing to accommodate space limitations.
5. The location of the Message Board shall vary to suit conditions and maximize its effectiveness in the discretion of the Superintendent. Typically, the Board will be illuminated from 7 am to 10 pm.
6. Non-governmental organizations shall be charged an application fee in accordance with Chapter 98 of the Borough Code to cover the cost of processing the application and messaging for the post. Each post will require a separate application.

**AND BE IT FURTHER ORDAINED** that Chapter 98, Article VI of the Borough Code, concerning Miscellaneous Non-Land Use Fees, at Section 98-30, is hereby amended by adding a new subsection 98-30H requiring a \$100 fee for each application for use of the Borough message board by a 501c3 non-profit organization, in accordance with Chapter 129 of the Code, the amended Section 98-30 to read as follows (with new language underlined):

98-30. Miscellaneous Fees.

The following miscellaneous fees shall be collected as required by the applicable sections of this Code:

- A. Annual license fee for body art establishments, as required by Section 76-1 of this Code: \$500.
- B. Peddler’s permit as required by Section 147-6 of this Code: \$100.

- C. Registration of vacant building, as required by Chapter 136, Art. II, initially and annually: \$250.
- D. Annual fee for electronic smoking device establishment license: \$600.
- E. Fee for Memorial Tree: \$500.
- F. Fee for Adopt A Flag: \$50.
- G. Fees for registration as a participant in the annual yard sale including use of yard sign advertising participation: \$25.
- H. Fee for each application for use of Borough Message Board pursuant to Chapter 129 of the Code: \$100.

**AND BE IT FURTHER ORDAINED** that this Ordinance shall be effective upon its passage and publication as provided by law

Council Member Rubenstein made a motion to open the Public Hearing on Ordinance 2026-2, second by Council Member Chandler. There were no comments from the public. Council Member Rubenstein made a motion to close the Public Hearing, second by Council Member Angarone with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2026-2, second by Council Member Angarone with all members present voting in favor.

Mayor Davy read Ordinance 2026-3 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2026-3**

**ORDINANCE CHANGING ENFORCEMENT AGENCIES UNDER THE BOROUGH FIRE PREVENTION CODE, AMENDING CHAPTER 104 OF THE CODE OF THE BOROUGH OF PENNINGTON**

**WHEREAS**, the Borough of Pennington (“Borough”) is responsible for certain fire inspection services under the Uniform Fire Safety Act (N.J.S.A. 52:27D-192, et seq.), including respectively life-hazard uses and non-life hazard uses as defined in the Act and related regulations;

**WHEREAS**, Borough Council seeks to reorganize its enforcement activities to defer to the Division of Fire Safety in the Department of Community Affairs for inspection of life-hazard uses while bringing inspection services for non-life-hazard uses in house by employing a Borough fire official;

**WHEREAS**, pending the appointment of a properly qualified fire official under the Fire Safety Act, the Borough will defer to the Division of Fire Safety for inspection services for both life-hazard and non-life-hazard uses;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, that Chapter 104 of the Borough Code is hereby amended (with new language underlined and deleted language crossed out) as follows:

- 1. Section 104-1. Local Enforcement.

Pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983,c. 1983; N.J.S.A. 52:27D-202; and N.J.A.C. 5:71-2.3), the New Jersey Uniform Fire Code shall be enforced with respect to life-hazard uses in the Borough of Pennington by the Division of Fire Safety in the New Jersey Department of Community Affairs locally within the established limits of the Borough of Pennington. Enforcement with respect to non-life-hazard uses within the jurisdiction of the Borough of Pennington shall be performed locally by a properly qualified fire official employed by the Borough for that purpose. When the Borough has not appointed such an official, or there is a vacancy in the position, the Borough shall defer to the Division of Fire Safety in the Department of Community Affairs for inspection services relating to non-life-hazard use as well.

- 2. Section 104-2. Agency Designation.

The ~~local-enforcing~~ agency for the Borough of Pennington shall be the ~~Hopewell Township Fire Commissioners Bureau of Fire Safety~~ New Jersey Department of Community Affairs except the enforcing agency for non-life-hazard uses shall be the Borough of Pennington subject to its appointment of a properly qualified fire official under the Uniform Fire Safety Act.

## 3. Section 104-3. Duties.

The ~~local enforcing agencies~~ agency for the Borough of Pennington shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the jurisdiction of the Borough of Pennington, other than owner-occupied one and two family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

## 4. Section 104-4. Life-hazard uses.

In accordance with Section 104-2 of this chapter, the Division of Fire Safety in the New Jersey Department of Community Affairs ~~The local enforcing agency established by Section 104-22 of this article shall carry out the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner of the Department of Community Affairs of the State of New Jersey.~~

## 5. Section 104-5. Non-life-hazard uses.

The Fire Official appointed by the Borough of Pennington in accordance with Section 104-2 of this chapter ~~The local enforcing agency established by Section 104-2 of this article shall carry out the inspections of inspection services for non-life-hazard uses as defined by the Uniform Fire Code on behalf of the Commissioner of the Department of Community Affairs of the State of New Jersey. When the Borough has not appointed a fire official or there is a vacancy in that position, these services shall be performed by the New Jersey Department of Community Affairs as above provided.~~

## 6. Section 104-6. Fees.

The fees authorized by the Uniform Fire Safety Code (P.L. 1983, c.383, N.J.S.A. 52:27D-192, et seq.) and N.J.A.C. 5:70-2.9(c) are set forth in Chapter 98 of this Code. The payment of required fees for life-hazard uses and other industrial and commercial uses shall be the responsibility of the occupant of the premises. The payment of fees required for multifamily dwellings shall be the responsibility of the owner of the premises. The above-described fees shall be paid by the responsible party on or before the date specified in the notice served upon said party by the Fire Official, which date shall be at least 30 days from the date of the notice.

## 104-7 Appointment of Fire Official, inspectors and employees.

- A. Appointment of Fire Official. The local enforcing agency, when charged with inspection of non-life-hazard uses, shall be under the supervision of a the Fire Official who shall be appointed by the Pennington Borough Council subject to applicable legal requirements ~~Hopewell Township Board of Fire Commissioners, Fire District No. 1, under the authority of an interlocal services agreement.~~
- B. Term of office. The Fire Official shall serve for a term of one year.
- C. Inspectors and employees. Such inspectors and other employees as may be necessary in the local enforcing agency shall be appointed by the Pennington Borough Council ~~Hopewell Township Board of Fire Commissioners, Fire District No. 1, under the authority of an interlocal services agreement~~ upon the recommendation of the Fire Official.
- D. ~~Removal from office. Inspectors and other employees of the enforcing agency shall be subject to removal by the Hopewell Township Board of Fire Commissioners, Fire District No. 1, for inefficiency or misconduct. Each inspector or employee to be so removed shall be afforded an opportunity to be heard by the appointing authority or a designated hearing officer.~~

## 7. Section 104-8. Appeals.

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act (N.J.S.A. 52:27D-206 and 27D-208), any person aggrieved by any order of the local enforcement agency shall have the right to appeal to the Construction Board of Appeals of Mercer County.

**AND BE IT FURTHER ORDAINED**, that this Ordinance shall be effective upon its passage and publication as provided by law.

Council Member Rubenstein made a motion to open the Public Hearing on Ordinance 2026-3, second by Council Member Chandler. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2026-3, second by Council Member Rubenstein with all

members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2026-3, second by Council Member Valenza with all members present voting in favor.

**COMMITTEE REPORTS**

**Personnel / Economic Development** – Ms. Angarone reported that Personnel met and continue to discuss succession planning as it relates to the budget and professional agreements. Ms. Angarone stated that they are relying on the Borough Administrator to make recommendations so that the government functions can continue without interruption in the event of staff changes.

Ms. Angarone stated that Economic Development did not meet in January but they will meet two times in February.

**Public Works / Senior Advisory** – Ms. Stern reported the Public Works met and they considered the multiple big projects that are coming up. Ms. Stern stated that they talked about the sidewalk plan and set a goal for summer of 2026 to have pricing and a proposal that will include a budgetary set aside to address cost sharing in the 2027 budget. Ms. Stern stated that they discussed retention of the Borough Water Utility and the Borough Administrator is working on a presentation to include the Phoenix Advisor plan and cost proposals for Lead Line Replacements and PFAS remediation so that Council can make an informed decision. Ms. Stern stated that the Borough Administrator will be providing information on PFAS and the cost of remediation at the end of the second quarter. Ms. Stern stated that in terms of Lead Service Lines, bid proposals are expected shortly.

Ms. Stern stated that she was able to attend the Senior Advisory Board meeting and there are many programs and activities available and information can be found on all of these things on their website.

**Finance / Public Safety / Landfill / Arboretum** – Mrs. Chandler stated that a meeting was held regarding the Streetscape project to move the project along, more information will be coming on this.

Mrs. Chandler had no update for the Landfill.

Mrs. Chandler stated that the Finance Committee has been working on the budget for 2025 and information on where we are in the process was included in the packets. Mrs. Chandler outlined some of the items that are still under discussion for inclusion in the budget. Mrs. Chandler stated that the plan is to introduce the budget at the March Regular Council Meeting.

**Board of Health / Environmental Commission / Shade Tree** – Mr. Rubenstein reported that the Environmental Commission and welcomed new members, discussed stormwater, the next Community Conversation on water runoff and projecting water ways. Mr. Rubenstein stated that they continue to work on their checklist for Planning Board applications.

Mr. Rubenstein stated that Shade Tree met and they are looking for a new Chairperson. Mr. Rubenstein state that Community Forestry Management Plan has been approved and he thanked everyone involved in this plan. Mr. Rubenstein stated that this is a 5 year plan so it will be in effect for 5 years.

Mr. Rubenstein stated that Board of Health met and approved Marjorie Kaplan as the new Chair. Mr. Rubenstein stated that there are many programs available for health assistance for residents and they will be providing information for the Borough website.

**Planning Board / Historic Preservation / Parks & Recreation** – Ms. Kassler-Taub reported that the Planning Board me January 14 for their Reorganization Meeting. Ms. Kassler-Taub stated that Mr. Kyle reviewed the Housing Plan and Mr. Jackson updated the board on the Master Plan.

Ms. Kassler-Taub stated that Historic Preservation and Parks and Recreation did not meet, but they will be meeting next month.

**Library Board / Hopewell Green Team / Net Zero Subcommittee** - Mr. Valenza hand nothing to report.

**NEW BUSINESS**

**BOROUGH OF PENNINGTON  
RESOLUTION 2026 – 2.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED** that a refund be issued from the Current Fund to ProCap 8 FBO FirstTrust Bank, P.O. Box 774, Fort Washington, PA 19034-0774 for an overpayment of 1<sup>st</sup> Quarter Taxes 2026 for Block 403/Lot 9, 202 King George Road in the amount of \$3,172.25.

**Record of Council Vote on Passage**

<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>	<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>
-------------------	------------	------------	-------------	-------------	-------------------	------------	------------	-------------	-------------

Angarone	S			Rubenstein	X		
Chandler	M			Stern	X		
Kassler-Taub	X			Valenza	X		

Council Member Chandler made a motion to approve Resolution 2026-2.1, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026 – 2.2**

**AUTHORIZING PAYMENT OF BILLS**

**WHEREAS**, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 4,646,465.16 from the following accounts:

Current	\$ 3,612,767.89
W/S Operating	\$ 552,491.41
Other Trust Fund	\$ 10,286.57
General Capital	\$ 429,747.17
Water/Sewer Capital	\$ 27,915.85
Grant Fund	\$ 6,520.52
Developer’s Escrow	\$ 315.00
Animal Control	\$ 797.08
Recreation	\$ 13.67
Open Space Fund	\$ 5,610.00
<b>TOTAL</b>	<b>\$ 4,646,465.16</b>

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	S				Rubenstein	X			
Chandler	X				Stern	M			
Kassler-Taub	X				Valenza	X			

Council Member Stern made a motion to approve Resolution 2026-2.2, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026–2.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE  
2026 TEMPORARY BUDGET**

**WHEREAS**, the 2025 Budget for the Borough of Pennington has not been adopted; and

**WHEREAS**, additional funds are necessary to meet various obligations of the Borough of Pennington;

**NOW, THEREFORE, BE IT RESOLVED**, that the following additional appropriations be made in the 2026 Temporary Budget for the Current Account.

Administration	Other Expense	\$10,000.00
Mayor & Council	Other Expense	\$1,000.00



**RESOLUTION 2026-2.5**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 1:26 FOR  
TRENTON CYRUS FOUNDATION**

**WHEREAS**, Trenton Cyrus Foundation submitted raffle application RA: 1:26 on January 14, 2026 for a “Casino Night” to take place on April 18, 2026 at Trenton Cyrus Lodge #5, 131 Burd Street, Pennington, NJ 08534 and a copy of that application is attached to this resolution; and

**WHEREAS**, N.J.A.C. 13:47-4.1 et seq., requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

**WHEREAS**, the required waiting period was satisfied on January 21, 2026; and

**WHEREAS**, Trenton Cyrus Foundation meets the qualifications for issuance of a license for said raffle based on the findings and determination set forth in the annexed form 5-A, as required by law;

**WHEREAS**, Trenton Cyrus Foundation, in accordance with law, has submitted the required fees forthwith;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that raffle license RA: 1:26 for Trenton Cyrus Foundation be approved; and

**BE IT FURTHER RESOLVED** that the Municipal Clerk will forward the annexed Application and Findings and Determinations for RA: 1:26 to the Legalized Games of Chance Control Commission in accordance with N.J.A.C. 13:47-4.1, et seq.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	S				Rubenstein	X			
Chandler	M				Stern	X			
Kassler-Taub	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2026-2.5, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.6**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION  
MONIES TO OUTSIDE LIENHOLDER**

**WHEREAS**, at the Borough Tax Sale held on December 5, 2025, a lien was sold on Block 403, Lot 9, also known as 202 King George Road, Pennington, NJ, for 2023 delinquent water and sewer utility payments; and

**WHEREAS**, this lien, known as Tax Sale Certificate #23-00002, was sold to Pro Cap 8 FBO Firstrust, P.O. Box 774, Fort Washington, PA 19034-0774; and

**WHEREAS**, Comerica, on behalf of the homeowner has effected redemption of Certificate #23-00002 in the amount of \$2,451.70;

**NOW, THEREFORE, BE IT RESOLVED**, that the Chief Financial Officer is authorized to issue a check in the amount of \$2,451.70 from the Current Fund, payable to Pro Cap 8 FBO Firstrust, P.O. Box 774, Fort Washington, PA 19034-0774 for the redemption of Tax Sale Certificate #23-00002; and

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	M				Rubenstein	X			
Chandler	S				Stern	X			
Kassler-Taub	X				Valenza	X			

Council Member Angarone made a motion to approve Resolution 2026-2.6, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION NO. 2026-2.7**

**RESOLUTION AUTHORIZING ISSUANCE OF PERMIT (S) TO  
HOPEWELL TOWNSHIP RECREATION DEPARTMENT FOR**

**USE OF KUNKEL PARK FOR ART IN THE PARK**

**WHEREAS**, the Hopewell Township Recreation Department (“HTRD”), having offices at 201 Washington-Crossing Pennington Road, has applied to Pennington Borough for permits authorizing use of Kunkel Park for the program known as Art in the Park (“Program”);

**WHEREAS**, the dates and times sought to be reserved for use by the Program are during the following weeks from 8:30 AM to 12:30 PM: June 22, 2026 through June 26, 2026, July 6, 2026 through July 10, 2026, July 13, 2026 through July 17, 2026 and July 20, 2026 through July 24, 2026;

**WHEREAS**, pursuant to Ordinance 2024-1, adopted March 4, 2024, users of the Park issued permits without fee must provide a refundable security deposit in the amount of \$500 chargeable for costs of cleanup and property damage;

**WHEREAS**, a copy of the proposed permit (“Permit”) is attached and incorporated herein by reference;

**WHEREAS**, Borough Council seeks to authorize issuance of the Permit subject to the following conditions:

1. HTRD shall comply with the requirements for use set forth in the Permit, including the regulations specified in Borough Code Sec. 143-3.
2. HTRD shall ensure in particular that the tables, benches and other park furniture and equipment in the Park are kept clean and left in the same condition they are found.
3. HTRD shall charge Pennington and Hopewell Township residents the same fee for participation in the Program.
4. HTRD shall provide a \$500 refundable security deposit as provided by Ordinance 2024-1.

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the attached Permit is hereby approved for issuance to the HTRD subject to the conditions set forth above.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Rubinstein	M			
Chandler	S				Stern	X			
Kassler-Taub	X				Valenza	X			

Council Member Rubenstein made a motion to approve Resolution 2026-2.7, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2024 – 2.8**

**RESOLUTION AUTHORIZING SHARED SERVICES  
AGREEMENT FOR USE, MAINTENANCE  
AND CLEANING OF THE SENIOR CENTER FOR 2024**

**WHEREAS**, use of the Senior Center on Reading Street in the Borough of Pennington is shared by Hopewell Borough, Hopewell Township and Pennington Borough;

**WHEREAS**, responsibilities for maintenance of the Senior Center are also shared among the three municipalities;

**WHEREAS**, the three municipalities intend to enter into a shared services agreement for 2026, superseding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$5,808.00; Hopewell Borough will pay Pennington \$1,450.00 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building and the HVAC and plumbing, painting and replacement of light bulbs, and snow and ice removal from sidewalks and parking lots;

**WHEREAS**, the proposed form of agreement is annexed to this Resolution;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the annexed agreement on behalf of Pennington Borough, subject to approval as to form by the Borough Attorney.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Rubenstein	S			
Chandler	X				Stern	M			
Kassler-Taub	X				Valenza	X			

Council Member Stern made a motion to approve Resolution 2026-2.8, second by Council Member Rubenstein with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.9**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO  
A SHARED SERVICES AGREEMENT WITH HOPEWELL TOWNSHIP FOR  
EMERGENCY AND POLICE DISPATCH SERVICES  
FOR THE YEARS 2026 AND 2027**

**WHEREAS**, the Borough of Pennington desires to contract with Hopewell Township for the provision of emergency and police dispatch services; and

**WHEREAS**, the Uniform Shared Services and Consolidation Act permits a local unit to enter into a contract with another local unit for the provision of any services which any party to the agreement is empowered to render within its own jurisdiction; and

**WHEREAS**, the term of the proposed contract, entitled “Shared Services Agreement Police Dispatching And Emergency Communication Services Between The Township Of Hopewell And Borough Of Pennington”, shall be for two years beginning January 1, 2026 and continue through December 31, 2027; and

**WHEREAS**, the cost to the Borough for police dispatch services as outlined in the Shared Services agreement would be \$87,620.00 for 2026 and \$92,870.00 for 2027;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid Shared Services Agreement with Hopewell Township for the provision of emergency and police dispatch services during the period January 1, 2026 through December 31, 2027; and

**BE IT FURTHER RESOLVED** that the aforesaid Agreement shall be substantially in the form attached to this Resolution, subject to approval by the Borough Attorney.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Rubenstein	M			
Chandler	S				Stern	X			
Kassler-Taub	X				Valenza	X			

Council Member Rubenstein made a motion to approve Resolution 2026-2.9, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.10**

**RESOLUTION AUTHORIZING CONTRACT WITH WATER RESOURCE MANAGEMENT FOR  
SERVICES AS WATER AND SEWER COMPLIANCE OFFICER AND FOR PREPARATION OF  
CONSUMER CONFIDENCE REPORT AND OTHER SERVICES AS NEEDED FOR THE YEAR  
2026**

**WHEREAS**, the Borough seeks to enter into a contract with Water Resource Management to provide professional services as Water and Sewer Compliance Officer for the Borough in 2026;

**WHEREAS**, the Borough also seeks the services of Water Resource Management for preparation of Consumer Confidence Report and Lead Service Line Replacement Documentation;

**WHEREAS**, Water Resource Management has supplied a letter dated December 30, 2025 describing the services it will provide as Water and Sewer Compliance Officer and with respect as well to Consumer Confidence Report and Lead Service Line Replacement Documentation; and

**WHEREAS**, as further described in the Compliance Officer Proposal, Water Resource Management will provide the Compliance Officer services for a flat fee of \$840 per month not to exceed \$10,080 per year and the Consumer Confidence Report for a flat fee of \$160 per month not to exceed \$1,920 per year;

**WHEREAS**, at the Borough’s request, Water Resource Management also provides for the performance of emergency call out and additional professional services for work beyond the scope of services described in the Compliance Officer Proposal on an hourly basis at rates ranging from \$95-\$230.00 per hour plus additional costs as needed on a case by case basis as per the rate schedule provided;

**WHEREAS**, Water Resource Management and its personnel hold all required New Jersey DEP licenses required to perform the services described in the Compliance Officer Proposal and the Additional Services Proposal;

**WHEREAS**, the Chief Financial Officer has certified that funds necessary to pay for these services are available in account #: 6-05-55-501-000-260;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the attached Proposal by Water Resource Management is hereby accepted and Water Resource Management is hereby appointed Water and Sewer Compliance Officer for Pennington Borough for 2026 and also charged with performing the additional services as described above, subject to the following conditions:

1. that the Compliance Officer Proposal be amended to ensure compliance by Water Resource Management with Anti-Discrimination and Affirmative Action requirements of the State of New Jersey as set forth in the annexed Exhibit A;
2. that the Compliance Officer Proposal be further amended to provide that the contract between Water Resource Management and the Borough shall be terminable on 30 days prior written notice by either party;
3. that the Additional Services Proposal be supplemented by a provision that expenditures for additional services and costs under that Proposal shall not exceed on an annual basis \$1,000.00 unless approved in advance, in writing, by Borough Council;
4. that Water Resource Management demonstrate coverage by sufficient professional liability insurance, to be approved by the Borough Attorney;
5. that the Mayor or Borough Administrator are authorized to issue such purchase orders and contract documents as further necessary to retain and pay for the services of Water Resource Management as Water and Sewer Compliance Officer consistent with the Compliance Officer Proposal and for preparation of Consumer Confidence Report in accordance with the related Proposals, and for the additional services and costs covered by the Additional Services Proposal, and the terms and conditions of this Resolution; and
6. that no work shall begin under this Resolution and agreement until approved in advance and in writing by Borough Council and a related purchase order has been issued.
7. that the contract(s) with Water Resource Management contain a mutual indemnification clause approved by the Borough Attorney.
8. that the part of the attached Proposal concerning services as “Licensed Operator of Responsible Charge” shall not be included in the authorized contract.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Rubenstein	S			
Chandler	X				Stern	M			
Kassler-Taub	X				Valenza	X			

Council Member Stern made a motion to approve Resolution 2026-10, second by Council Member Rubenstein with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.11**

**RESOLUTION RENEWING LOCAL RETAIL CANNABIS LICENSE FOR JERSEY MEDS MANAGEMENT, LLC, PURSUANT TO THE NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT, N.J.S.A. 24:6I-31, ET SEQ., AND PENNINGTON ORDINANCE 2021-9**

Regulatory Framework

**WHEREAS**, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et seq. (the “Personal Use Act”) legalizes the recreational use of

marijuana by adults 21 years of age or older and establishes a comprehensive regulatory and licensing scheme for commercial production, distribution and sale of cannabis items;

**WHEREAS**, the Personal Use Act authorizes municipalities to adopt regulations by ordinance governing the number of cannabis establishments, distributors and delivery services allowed to operate within their borders, regulating the location, manner and times of operation of these establishments, distributors and delivery services, and establishing civil penalties for the violation of any such regulations, provided the time of operation of delivery services shall be subject only to regulation by the New Jersey Cannabis Regulatory Commission (N.J.S.A. 24:6I-45.a);

**WHEREAS**, by Ordinance 2021-9, entitled “Amended Ordinance Restricting the Number, Location and Operation of Cannabis Retailers, Medical Cannabis Dispensaries and Cannabis Delivery Services and Prohibiting All Other Cannabis Businesses and Operations in the Borough, Amending the Code of the Borough of Pennington” (hereafter “Ordinance” or “Ordinance 2021-9”), the Borough of Pennington has authorized as a conditional use the establishment of a single retail store for the sale of personal-use cannabis, subject to the following requirements: :

1. the store shall be licensed by the Cannabis Regulatory Commission (“CRC”) as a Class 5 retailer under the Personal Use Act;
2. the store shall be located in either the B–H Highway Business zoning district or the OB-Office Business zoning district;
3. the store shall be regulated as a “conditional use,” requiring the owner to satisfy as a condition of operation the restrictions on the number, location, manner and time of operation set forth in the Ordinance, as amended from time to time, including:
  - (a) the floor area of the licensed facility shall not exceed 2,500 square feet, as defined in Chapter 215 of the Borough Code;
  - (b) the operating hours of the dispensary shall be between 9 am and 8 pm daily;
  - (b) the store shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress;
  - (c) no cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place;
  - (e) all cannabis products shall be stored securely, indoors and onsite;
  - (f) consumption of cannabis products, by any means of ingestion, shall not be permitted in the licensed facility or adjacent grounds;
  - (g) the licensed facility shall implement odor control measures approved by the Board of Health;
  - (h) the licensed facility shall develop and implement security protocols subject to review and approval by the Pennington Borough Police Department;
  - (i) At a minimum, the following security measures must be undertaken:
    - [1] a video recording security system shall be employed covering all areas of the facility and the exterior of the building with a 24/7 recording system that records for a minimum 30-day archive;
    - [2] the facility and adjacent right-of-way shall be monitored by staff and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis;
4. the design of the building or structure required by the licensed facility shall conform to the general character of the area in which it is located;
5. the facility shall provide off-street parking and site access as required by Borough ordinances and applicable approvals of the Borough Planning Board;
6. the facility shall also comply with all applicable zoning, signage and site plan requirements and the specifications and standards of Sections 215-79 and 215-81 and other applicable provisions of Chapter 215 of the Borough Code, as may be amended from time to time;

**WHEREAS**, as authorized by the Personal Use Act, the Ordinance establishes a separate local licensing requirement as part of Borough restrictions on the number of cannabis retailers and their location,

manner and times of operation, to the full extent permitted by law, and such license must be renewed annually;

**WHEREAS**, the issuance or renewal of a local license requires a resolution of Borough Council finding that the applicant complies with all applicable Borough restrictions on the number of cannabis businesses and the location, manner and times of their operation, including continued compliance with all zoning and land use approvals and related conditions and standards;

**WHEREAS**, Borough Council may deny or revoke a local license or take other adverse action based on failure of compliance with restrictions, conditions and standards which are the basis for licensure, and to the extent permitted by law, possession of a valid local license shall be a condition precedent to operation of a cannabis business in the Borough;

**WHEREAS**, Borough Council shall notify the CRC in every case that Council either approves or denies an application for local licensure,;

**WHEREAS**, the local licensing requirement shall be in addition to any land use approvals within the jurisdiction of the Borough Planning Board; .

**WHEREAS**, as authorized by the Personal Use Act and N.J.S.A. 40:48I-1.a (1), Ordinance 2021-9 imposes a transfer tax of up to two percent (2%) on the sale of cannabis or cannabis items by a cannabis retailer located in the Borough;

**WHEREAS**, municipalities imposing a transfer tax by ordinance are required by N.J.S.A. 40:48I-1.a (2) to include in the ordinance a user tax, equivalent to the transfer tax rate, payable by any concurrent license holder in the municipality operating more than one cannabis establishment and transferring cannabis or cannabis items to any of the license holder’s other cannabis establishments, whether located in the same or other municipality, based on the value of each such transfer or use not otherwise subject to the transfer tax;

**WHEREAS**, any violation of the provisions of the Ordinance or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board, shall be punishable by a civil fine of no less than \$1,000.00 and no more than \$2,500.00, and all violations shall be reported to the CRC or other appropriate state authority;

Renewal of Local License for Jersey Meds Management, LLC

**WHEREAS**, pursuant to Borough Council Resolution 2023-6.6, which is incorporated herein by reference, Jersey Meds Management, LLC (“Jersey Meds”) is the holder of a local license to locate and operate a retail cannabis store as lessee of Unit 5 in the Pennington Square Shopping Center, Block 206, Lot 3 on the Pennington Borough Tax Map, also known as 7 Route 31 North in the Borough of Pennington;

**WHEREAS**, Jersey Meds now seeks renewal of this local license for the new license year and in support thereof:

1. certifies its continued compliance with the terms, conditions and requirements for issuance of its local license as set forth in Borough Council Resolution 2023-6.6;
2. certifies its eligibility for continued State licensure by the CRC subject only to issuance of a renewed local license by Pennington Borough;
3. certifies that it has paid to Pennington Borough all cannabis transfer taxes and user taxes required by law;
4. has submitted the required annual renewal fee of \$5,000 payable to the Borough of Pennington;

**WHEREAS**, Borough Council finds and determines that:

1. Except as specifically noted below, Jersey Meds’ proposed Class 5 retail store complies with all applicable Borough restrictions on the number of cannabis businesses in the Borough and the location, manner and times of their operation, including compliance with all zoning and land use approvals and related conditions and standards, as required by the Ordinance (Section 215-81(15) of the Borough Code).
2. This local license is subject to CRC issuance of a renewed annual Class 5 retail license to Jersey Meds.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, as follows:

1. Borough Council adopts the recitals and findings set forth above.
2. Renewal of a local license to Jersey Meds for the operation of a Class 5 retail store at 7 Route

31 North in the Borough of Pennington is hereby approved subject to CRC issuance of a renewed annual license to Jersey Meds for this Pennington location, and subject further to the following continuing conditions:

- (a) Continued compliance with all applicable New Jersey State laws and regulations, including in particular the Personal Use Act, CRC Rules and Regulations, the requirements of Ordinance 2021-9 and the Code of the Borough of Pennington, all as may be amended from time to time.
- (b) Continued compliance with the conditions of Conditional Use approval by the Pennington Planning Board, as memorialized in the Planning Board Resolution including, inter alia, the required reporting of attempted use of fraudulent identification documents presented in an effort to purchase cannabis products, as set forth in Condition F at page (6) of the Planning Board Resolution.
- (c) Payment of all required taxes and fees owed to the Borough in accordance with the Ordinance and Borough Code and agreement concerning the schedule for monthly payment of cannabis transfer taxes as stated in Resolution 2023-6.6, as may be amended from time to time.
- (d) The local license shall be prominently displayed in the Jersey Meds’ store, visible to customers.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Rubinstein	S			
Chandler	M				Stern	X			
Marciante	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2026-11, second by Council Member Rubenstein with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.12**

**RESOLUTION AUTHORIZING APPOINTMENT OF ROBERT D. INGRAM AS EMERGENCY MANAGEMENT COORDINATOR FOR THE BOROUGH OF PENNINGTON, TO SERVE AS PART-TIME BOROUGH EMPLOYEE**

**WHEREAS**, New Jersey law, as set forth in New Jersey Revised Statutes Appendix A:9-40.1 (2013), provides that in every municipality of the State except in those having a commission form of government, the mayor shall appoint a municipal emergency management coordinator;

**WHEREAS**, the Mayor of Pennington seeks to appoint as Emergency Management Coordinator Robert D. Ingram of Pennington;

**WHEREAS**, Mr. Ingram has previously served the Borough well as Deputy Emergency Management Coordinator (for fire) and has an extensive background in emergency management and related activities;

**WHEREAS**, Mr. Ingram will serve as a part-time Borough employee, reporting to the Administrator, and will be compensated at \$30 per hour with total annual compensation not to exceed \$9,360;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available for this appointment;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the aforesaid appointment of Robert D. Ingram as a part-time employee of the Borough of Pennington, to be compensated at the rate of \$30 per hour with total annual compensation not to exceed \$9,360, is hereby authorized and approved.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	S				Rubenstein	X			
Chandler	M				Stern	X			
Kassler-Taub	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2026-2.12, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2026-2.13**

**RESOLUTION AUTHORIZING GRANT APPLICATION TO THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY FOR DEVELOPMENT OF A PROJECT PLAN TO GUIDE REHABILITATION OF THE BOROUGH LANDFILL, AND APPROVING A RELATED APPLICATION FEE OF \$1,000**

**WHEREAS**, Asset Activation Planning Grants of up to \$100,000 may be obtained from the New Jersey Economic Development Authority to help municipalities and other eligible entities to develop plans for the revitalization of under-utilized public assets;

**WHEREAS**, Borough Council seeks to apply for such a grant, to fund the professional development of a project plan for rehabilitation of the Borough Landfill requiring a level of expertise beyond the means of both the Borough and County authorities;

**WHEREAS**, the contemplated plan will determine the feasibility of excavating the Landfill, separating the waste from the soil cap, and transporting the waste to a modern, lined landfill in compliance with NJDEP guidelines, and in so doing, will then be the basis for obtaining future funding to perform that activity and for ultimate remediation of the site;

**WHEREAS**, the project plan funded by the grant is to be prepared by professional engineering consultants recommended by the Mercer County Improvement Authority, under the direction of Borough Council and in consultation with the MCIA, NJDEP, the Borough Planning Board and the public;

**WHEREAS**, the Borough has previously commissioned State-funded studies of the Landfill by Excel Environmental determining the contents of the Landfill to be benign and safe to move;

**WHEREAS**, the Borough has designated the Landfill property as an Area in Need of Redevelopment, and its location on West Delaware Avenue in the center of town, between the CSX railroad tracks and the commercial development on Route 31, will offer attractive opportunities for reuse once remediated;

**WHEREAS**, application for the desired grant will require payment of an application fee of \$1,000 payable to the Economic Development Authority;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the expenditure of \$1,000 as an application fee payable to the NJ Economic Development Authority, in support of the aforesaid Borough application for an Asset Activation Planning Grant, is hereby authorized; and the Borough Administrator is directed to take all steps as may be necessary to submit such application on the Borough’s behalf.

**Record of Council Vote on Passage**

<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>	<b>COUNCILMAN</b>	<b>AYE</b>	<b>NAY</b>	<b>N.V.</b>	<b>A.B.</b>
Angarone				abstain	Rubenstein	X			
Chandler	M				Stern	S			
Kassler-Taub	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2026-2.13, second by Council Member Stern with all members present voting in favor except for Ms. Angarone who abstained.

**PROFESSIONAL REPORTS**

Mayor Davy thanked the Public Works Department and the Police Department for their exceptional work during the storm.

**Borough Administrator** – Mr. Caminiti reported that he would also like to thank the staff for their work during the storm and he would like to point out the cooperation between public works, police, fire and OEM. Mr. Caminiti reported on settlement money that should be coming in related the PFAS. Mr. Caminiti stated that health insurance costs for 2026 are locked in and should be stable going forward now that the Borough has pulled out of State Health Benefits and joined a Health Insurance Fund. Mr. Caminiti reported that the Borough Stormwater Management Plan has been approved.

**Borough Attorney** – Mr. Bliss stated nothing further other than the Closed Session items.

**Borough Clerk** – Mrs. Sterling had nothing further to report.

**Chief Financial Officer** – Ms. Webb had nothing further to report.

**Superintendent of Public Works** – Mr. Smith thanked everyone from the top down for their support during the storm.

**Police** - Lieutenant Burroughs reported that OEM Will Mullen was very helpful during the storm. Lieutenant Burroughs thanked the Officers in the department who came in to assist during the storm.

**Public Comment**

Mayor Davy asked that anyone wishing to speak, please raise your hand so the Borough Clerk can acknowledge you, please state your name and address for the record and limit comments to the Governing Body to a maximum of 3 minutes.

There were no comments from the public.

**CLOSED SESSION**

**AT 8:06, PM, BE IT RESOLVED**, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

Open Space Acquisition - (Alan Hershey)

Contract Negotiations - EMS Services

Personnel - Borough Administrator - Goals

AT:8:06 PM, Council Member Rubenstein made a motion to convene in Closed Session, second by Council Member Chandler with all members present voting in favor.

With no further business to come before the Council, Council Member Angarone made a motion to adjourn the Regular Meeting, second by Council Member Kassler-Taub.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk