

MEETING TO ORDER.

There was a Salute to the Flag, after which the Borough Clerk stated this meeting is being held pursuant to the New Jersey Open Public Meeting Act. Adequate notice of this meeting was given by advertising in the December 2025 edition of the Trends and was provided to the Daily Record and the North Jersey Herald News. Adequate notice was also posted on the Municipal Building Bulletin Board, filed with the Borough Clerk and provided to those persons or entities requesting notification.

PUBLIC HEARING:

PAYMENT OF BILLS AS SUBMITTED BY THE TREASURER

A motion was offered by Councilman E. Harriz and seconded by Councilman A. Chirido for the payment of bills dated February 19, 2026.

February 19, 2026
03:34 PM

BOROUGH OF KINNELON
Check Register By Check Date

Page No: 1

Range of Checking Accts: First to Last Range of Check Dates: 01/16/26 to 12/31/26
Report Type: All Checks Report Format: Super Condensed Check Type: Computer: Y Manual: Y Dir Deposit: Y

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account Account Payab			
30031	01/23/26	USP02 U.S. POSTAL SERVICE	78.00		5065
30032	02/19/26	ACT04 ACTION DATA SERVICES	1,270.38		5066
30033	02/19/26	ACU01 ACU-DATA BUSINESS PRODUCTS INC	2,750.74		5066
30034	02/19/26	AGL01 A.G.L. WELDING SUPPLY COMPANY	241.35		5066
30035	02/19/26	ALL02 ALL SERVICE INC.	515.00		5066
30036	02/19/26	ALL04 ALLIED OIL COMPANY	4,135.39		5066
30037	02/19/26	ALL17 ALL-PURPOSE ELECTRIC CO INC.	2,543.71		5066
30038	02/19/26	ALL18 ALLEGIANCE TRUCKS	537.54	02/19/26 VOID	5066 (Reason: Incorrect amount)
30039	02/19/26	AMA03 AMAZON CAPITAL SERVICES	1,135.63		5066
30040	02/19/26	AMB02 CRAIG AMBROSIO	113.40		5066
30041	02/19/26	ANC01 ANCHOR RUBBER STAMP	69.50		5066
30042	02/19/26	ANJ01 ANJEC	475.00		5066
30043	02/19/26	ATL11 ATLANTIC COAST RECYCLING,LLC	1,409.58		5066
30044	02/19/26	BOR BOROUGH OF BUTLER	48,200.33		5066
30045	02/19/26	BOR01 BOROUGH OF BUTLER ELECTRIC	7,670.90		5066
30046	02/19/26	BOR02 BOROUGH OF KINNELON	434.86		5066
30047	02/19/26	BOR11 BOROUGH OF BLOOMINGDALE	31,785.00		5066
30048	02/19/26	BOS03 BOSLAND'S FLORIST LLC	500.00		5066
30049	02/19/26	BRA05 BRAEN STONE INDUSTRIES, INC	809.71		5066
30050	02/19/26	BUZ01 SURENIAN, EDWARDS, BUZAK &	1,743.75		5066
30051	02/19/26	CAB01 OPTIMUM	59.77		5066
30052	02/19/26	CAB02 OPTIMUM	197.94		5066
30053	02/19/26	CAB03 OPTIMUM	119.40		5066
30054	02/19/26	CAB04 OPTIMUM	151.89		5066
30055	02/19/26	CAB05 OPTIMUM	120.39		5066
30056	02/19/26	CAB06 OPTIMUM	131.89		5066
30057	02/19/26	CAB07 OPTIMUM	131.89		5066
30058	02/19/26	CAB08 OPTIMUM	215.89		5066
30059	02/19/26	CAB09 OPTIMUM	120.39		5066
30060	02/19/26	CAB10 OPTIMUM	355.00		5066
30061	02/19/26	CAB11 OPTIMUM	125.94		5066
30062	02/19/26	CAB12 OPTIMUM	249.99		5066
30063	02/19/26	CAP05 CAPTUREPOINT	4,400.00		5066
30064	02/19/26	CAP06 CAPITOL SUPPLY CONSTRUCTION	208.34		5066
30065	02/19/26	CER01 CERTIFIED SPEEDOMETER SERVICE	250.00		5066
30066	02/19/26	CER04 CERTIFIED LABORATORIES	1,660.00		5066
30067	02/19/26	CES01 GARY CESTONE	65.00		5066
30068	02/19/26	CIN05 CINTAS CORPORATION #111	716.13		5066
30069	02/19/26	CIT05 FIRST-CITIZENS BANK & TRUST CO	619.33		5066
30070	02/19/26	CLI01 CLIFFSIDE BODY CORP.	1,040.00		5066
30071	02/19/26	CON11 CONNOLLY & HICKEY	6,200.00		5066
30072	02/19/26	CON18 CONCERN EMPLOYEE ASSISTANCE	909.90		5066
30073	02/19/26	COREL006 CORELOGIC CENTRALIZED REFUNDS	13,338.56		5066
30074	02/19/26	CYN02 CYNNA ENTERPRISES LLC	17,990.84		5066
30075	02/19/26	DAR01 DARMOFALSKI ENGINEERING ASSOC.	9,590.00		5066
30076	02/19/26	DAV04 DAVID WEBER OIL CO.	2,123.04		5066
30077	02/19/26	DEB03 DE BLOCK ENVIRONMENTAL SERVICE	9,889.08		5066
30078	02/19/26	DEL20 JENNAMARIE DELGROSSO	150.00		5066
30079	02/19/26	DIL01 DEAN DI LAURA	300.00		5066

February 19, 2026
03:34 PM

BOROUGH OF KINNELON
Check Register By Check Date

Page No: 2

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account Payable Continued			
30080	02/19/26	DKL01 DKL CONSULTING	1,187.50		5066
30081	02/19/26	ENZ01 ENZO'S CLEANING SOLUTIONS LLC	1,822.88		5066
30082	02/19/26	EXT01 EXTRA SPACE STORAGE	367.00		5066
30083	02/19/26	FDR01 FDR NORTH LLP	17.34		5066
30084	02/19/26	FIC01 PATRICIA FICHTNER	1,032.50		5066
30085	02/19/26	GAM01 GAME DAY SPORTS	5,215.08		5066
30086	02/19/26	GFO01 G.F.O.A. OF N.J.	100.00		5066
30087	02/19/26	GIB03 BRIAN T. GIBLIN, ESQ.	11,955.00		5066
30088	02/19/26	GOV04 GOVCONNECTION, INC.	300.69		5066
30089	02/19/26	GRA01 GRAINGER INC.	202.83		5066
30090	02/19/26	HAI04 ELLEN HAID	35.00		5066
30091	02/19/26	HAR15 HARD ROCK HOTEL & CASINO AC	1,156.80		5066
30092	02/19/26	HAR18 HARBOR FREIGHT	858.05		5066
30093	02/19/26	HER02 HERO'S SALUTE AWARDS COMPANY	40.00		5066
30094	02/19/26	HOM02 HOME DEPOT CREDIT SERVICE	379.41		5066
30095	02/19/26	HO002 HOOP HEAVEN WALDWICK	675.00		5066
30096	02/19/26	HOR04 HORIZON OFFICE EQUIPMENT	375.00		5066
30097	02/19/26	IND03 INDUSTRIAL APPRAISAL COMPANY	2,278.00		5066
30098	02/19/26	INS02 INSTITUTE FOR PROF. DEVELOPM'T	150.00		5066
30099	02/19/26	INT16 INTERACTION INSIGHT CORP	2,317.00		5066
30100	02/19/26	IUE01 KAREN IUELE	164.54		5066
30101	02/19/26	IYB01 IYB BASKETBALL LLC	6,500.00		5066
30102	02/19/26	JCP01 JCP&L	12.06		5066
30103	02/19/26	JER03 IMPERIAL DADE	2,284.12		5066
30104	02/19/26	JIM01 JIMMY THE SHOE DOCTOR	1,740.16		5066
30105	02/19/26	JON13 DANIEL JONKER	184.81		5066
30106	02/19/26	KAP02 MANDA KAPLAN DVM	375.00		5066
30107	02/19/26	KEY01 KEYTECH	3,380.00		5066
30108	02/19/26	KIM01 BRIAN KIMBLE	375.00		5066
30109	02/19/26	KIN08 KINNELON VOLUNTEER FIRE CO.	9,625.00		5066
30110	02/19/26	KIN09 KINNELON BOARD OF EDUCATION	3,646,835.25		5066
30111	02/19/26	KYL01 KYLE MCMANUS ASSOCIATES LLC	45.00		5066
30112	02/19/26	LOE01 LOEFFEL'S WASTE OIL SERVICE	575.00		5066
30113	02/19/26	MAC03 MACOPIN PIZZA	400.00		5066
30114	02/19/26	MCAA1 MCAA OF NJ	100.00		5066
30115	02/19/26	MET07 METROPOLITAN LIFE INSURANCE CO	904.56		5066
30116	02/19/26	MGL01 M.G.L. PRINTING SOLUTIONS	258.00		5066
30117	02/19/26	MIC02 MICROSYSTEMS-NJ.COM, L.L.C.	1,600.00		5066
30118	02/19/26	MON14 MONMOUTH TELECOM	4,290.68		5066
30119	02/19/26	MOR03 MORRIS CO. ASSESSOR'S ASSN.	195.00		5066
30120	02/19/26	MOR17 MORRIS CTY TAX COLL/TREAS ASSC	80.00		5066
30121	02/19/26	MOR21 MORRIS COUNTY M.U.A.	30,569.89		5066
30122	02/19/26	MUC01 CHRISTOPHER MUCCI	441.53		5066
30123	02/19/26	NAT16 NATIONAL HIGHWAY PRODUCTS	105.57		5066
30124	02/19/26	NEG01 NEGLIA ENGINEERING ASSOCIATES	103,275.80		5066
30125	02/19/26	NEO01 QUADIENT, INC.	1,545.00		5066
30126	02/19/26	NEW331 NEW JERSEY DEVILS	2,490.00		5066
30127	02/19/26	NI001 JOSEPH NIOSI	581.46		5066
30128	02/19/26	NJD07 NJ DEPT HEALTH & SENIOR SERV	689.40		5066
30129	02/19/26	NJLM01 NEW JERSEY STATE LEAGUE	854.00		5066
30130	02/19/26	NJP07 NJ PEST, LLC	440.00		5066
30131	02/19/26	NOR01 NORTH JERSEY COURT ADMIN ASSOC	90.00		5066

February 19, 2026
03:34 PM

BOROUGH OF KINNELON
Check Register By Check Date

Page No: 3

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL		General Account Payable Continued			
30132	02/19/26	NOR02 GANNETT NY-NJ LOCALIQ	126.41		5066
30133	02/19/26	NOR13 NORTH JERSEY MUNICIPAL	97,796.00		5066
30134	02/19/26	NOR18 NORTHEAST COMMUNICATIONS, INC.	8,595.01		5066
30135	02/19/26	NWR01 NW REFS	4,290.00		5066
30136	02/19/26	OLM01 OUR LADY OF THE MAGNIFICAT	1,100.00		5066
30137	02/19/26	ONE02 ONE CALL CONCEPTS, INC.	47.50		5066
30138	02/19/26	ONE03 ONE SOURCE OF NEW JERSEY LLC	1,201.94		5066
30139	02/19/26	ONS01 ON SITE APPARATUS SERVICES INC	2,260.00		5066
30140	02/19/26	ORO01 MICHAEL OROZCO	87.96		5066
30141	02/19/26	PEQ02 PEQUANNOCK TOWNSHIP	65,627.75		5066
30142	02/19/26	POW06 POWER PLACE, INC	253.02		5066
30143	02/19/26	PRO19 PROFESSIONAL ACCOUNTANTS	100.00		5066
30144	02/19/26	PSE01 P.S.E. & G.	9,489.32		5066
30145	02/19/26	RAC02 RACHLES/MICHELE'S OIL CO.,INC	4,651.48		5066
30146	02/19/26	ROU01 ROUTE 23 AUTO MALL	575.11		5066
30147	02/19/26	SAN03 TONY SANCHEZ, LTD	4,221.03		5066
30148	02/19/26	SAV01 JOSEPH SAVITTIERI	171.29		5066
30149	02/19/26	SCH30 MELANIE SCHUCKERS	60.24		5066
30150	02/19/26	SHA03 THE SHADE TREE DEPARTMENT LLC	416.21		5066
30151	02/19/26	SHI03 SHI INTERNATIONAL CORP	5,995.23		5066
30152	02/19/26	SHO06 DOUGLAS SHORTWAY	412.29		5066
30153	02/19/26	SMA02 SMARTER LOYALTY SPORTS LLC	2,670.00		5066
30154	02/19/26	SPE04 JAMES SPELLMON JR.	7,670.00		5066
30155	02/19/26	STA STAPLES ADVANTAGE, DEPT NY	0.00	02/19/26 VOID	0
30156	02/19/26	STA STAPLES ADVANTAGE, DEPT NY	3,204.21		5066
30157	02/19/26	STA05 STATE OF NEW JERSEY PWT	94.95		5066
30158	02/19/26	STA34 STANDARD SPRINGS INC.	815.00		5066
30159	02/19/26	STA35 STANDARD INSURANCE COMPANY	387.65		5066
30160	02/19/26	STI02 JENNIFER L. STILLMAN	90.00		5066
30161	02/19/26	SUB03 SUBURBAN DISPOSAL INC.	95,166.66		5066
30162	02/19/26	TAS01 TASTE OF REALITY	161.88		5066
30163	02/19/26	THY01 THYSENKRUPP ELEVATOR CORP.	2,234.12		5066
30164	02/19/26	TRA10 TRAINING UNLIMITED, LLC	240.00		5066
30165	02/19/26	TRE02 TREASURER, STATE OF NEW JERSEY	325.00		5066
30166	02/19/26	TRI01 TRI-BORO FIRST AID SQUAD	7,980.85		5066
30167	02/19/26	TRI09 TRI-STATE WINDOW TINTING INC.	743.38		5066
30168	02/19/26	TRI20 TRIONAID ASSOCIATES	75.00		5066
30169	02/19/26	TUR01 TURN-OUT UNIFORMS INC.	1,104.39		5066
30170	02/19/26	ULI01 ULINE	1,124.99		5066
30171	02/19/26	VER01 VERIZON	331.81		5066
30172	02/19/26	VER11 VERIZON WIRELESS	304.08		5066
30173	02/19/26	VER18 VERIZON CONNECT FLEET USA	143.55		5066
30174	02/19/26	VER20 VERONICA SPORTS LLC	1,007.88		5066
30175	02/19/26	WAS04 WASH HOUNDS	95.52		5066
30176	02/19/26	WEI07 WEINER LAW GROUP LLP	240.00		5066
30177	02/19/26	WON01 LILY WONG	4,000.00		5066
30178	02/19/26	YAM01 SHAN SHAN YAM	200.00		5066
30179	02/19/26	ALL18 ALLEGIANCE TRUCKS	465.75		5068
30180	02/19/26	KIE03 KIEL HOOK AND LADDER CO.	400.00		5068

February 19, 2026
03:34 PM

BOROUGH OF KINNELON
Check Register By Check Date

Page No: 4

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Num
GENERAL	General Account	Account Payab	Continued		
Checking Account Totals		<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:		148	2	4,367,539.20	537.54
Direct Deposit:		0	0	0.00	0.00
Total:		148	2	4,367,539.20	537.54
PLANNING 2	Columbia Bank				
1987	02/19/26	DAR01	DARMOFALSKI ENGINEERING ASSOC.	2,170.00	5067
1988	02/19/26	DUN10	MICHAEL DUNITZ	815.00	5067
Checking Account Totals		<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:		2	0	2,985.00	0.00
Direct Deposit:		0	0	0.00	0.00
Total:		2	0	2,985.00	0.00
Report Totals		<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:		150	2	4,370,524.20	537.54
Direct Deposit:		0	0	0.00	0.00
Total:		150	2	4,370,524.20	537.54

Totals by Year-Fund					
Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	5-01	183,657.89	0.00	0.00	183,657.89
WATER FUND	5-05	42,921.20	0.00	0.00	42,921.20
SEWER FUND	5-07	9,415.66	0.00	0.00	9,415.66
Year Total:		235,994.75	0.00	0.00	235,994.75
CURRENT FUND	6-01	3,947,024.03	0.00	0.00	3,947,024.03
WATER FUND	6-05	26,731.78	0.00	0.00	26,731.78
SEWER FUND	6-07	1,818.00	0.00	0.00	1,818.00
Year Total:		3,975,573.81	0.00	0.00	3,975,573.81
	C-04	111,581.84	0.00	0.00	111,581.84
DOG TAX	D-13	1,472.40	0.00	0.00	1,472.40
SNOW TRUST	N-35	3,517.40	0.00	0.00	3,517.40
RECREATION SPECIAL	R-16	32,855.29	0.00	0.00	32,855.29
	S-20	4,000.00	0.00	0.00	4,000.00
RECYCLE FUND	Y-21	2,543.71	0.00	0.00	2,543.71
Total of All Funds:		4,367,539.20	0.00	0.00	4,367,539.20

February 19, 2026
03:34 PM

BOROUGH OF KINNELON
Check Register By Check Date

Page No: 6

Project Description	Project No.	Project Total
Dunitz 36 White Birch #1384	1384	815.00
39 KINNELON ROAD VANDERVALK	1564	2,015.00
236 SOUTH GLEN ROAD	23201130	155.00
Total of All Projects:		<u>2,985.00</u>

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirido, Yes; Councilman R. Reckler, Yes;
Councilman E. Harriz, Yes; Councilman R. Lewis, Yes.

CONSENT AGENDA:

A motion was offered by Councilman E. Harriz and seconded by Councilman A. Chirido, the following motions and resolutions were offered for approval.

- a. Resolution: 02.01.2026 100% Tax Exemption – 17 Pheasant Run
- b. Resolution: 02.02.2026 Authorize Mayor to Sign North Jersey Municipal Employee Benefits Fund Indemnity and Trust Agreement - North Jersey Municipal Employee Benefits Fund Renewal
- d. Resolution: 02.03.2026 Authorize Mayor to sign Action Data Services
- e. Resolution: 02.04.2026 Appropriations Reserve Transfers 2025
- f. Resolution: 02.05.2026 Tax Overpayment 1st quarter 2026 property taxes
- g. Resolution: 02.06.2026 Appointment of Thomas F. Carroll as Temporary Business Administrator
- h. Resolution: 02.07.2026 Authorizing Hiring 2 Probationary Police Officers for the Kinnelon Police Department
- i. Resolution: 02.08.2026 Smoke Rise Fireworks July 3, 2026
- j. Resolution: 02.09.2026 Authorize to hire Brad Steinberger as Full Time DPW Maintainer
- k. Resolution: 02.10.2026 Authorize to hire Jack Hamilton as Full Time DPW Maintainer
- l. Resolution: 02.11.206 Recreation Grant LEA Lighting & Fixtures at the Boonton Recreational Facility
- m. Resolution: 02.12.2026 Authorization for D&B Service Group Maintenance Kinnelon Municipal Complex
- n. Resolution: 02.13.2026 Authorizing Adoption of the 2025 Morris County, NJ Hazard Mitigation Plan Update
- o. Resolution: 02.14.2026 Salary Pay Increase for David Amadio, Kinnelon Public Defender
- p. Resolution: 02.15.2026 Bicycle Club of NJ – Municipal Building as a Rest Stop August 30, 2026
- q. Resolution: 02.16.2026 Authorize Mayor to sign agreement for 2026 Sewage Agreement between the Kinnelon Board of Education and the Borough of Kinnelon
- r. Raffle License: Smoke Rise Riding Club – KN908KB

*
*
*

RESOLUTION # 02.01.2026

BE IT RESOLVED, BY THE Mayor and Council of the Borough of Kinnelon, that the Tax Collector be relieved of collecting \$1,570.19 in property taxes on Block 33601 Lot 115 also known as 17 Pheasant Run. due to an exemption as 100% Disabled Veteran granted by the Tax Assessor effective December 1, 2025 and warrant be drawn to the Cotality in the amount of \$1,570.19 for taxes that have already been paid for 2025.

ROLL CALL: Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirdo			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

February 19, 2026
Judith O'Brien, CTC
Tax Collector
Borough of Kinnelon

I, Karen M. luele, Borough Clerk, Borough of Kinnelon, hereby certify this resolution to be a true copy of the resolution which was duly passed at the regular meeting of the Borough of Kinnelon May and Council February 19, 2026.

Date: 2/19/26

Karen M. luele
Karen M. luele, Borough Clerk

RESOLUTION NO. 2.02.2026

**NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND
RESOLUTION to RENEW**

WHEREAS, a number of public entities in the State of New Jersey have joined together to form the **North Jersey Municipal Employee Benefits Fund**, hereafter referred to as "FUND", as permitted by N.J.S.A. 11:15-3, 17:1-8.1, and 40A:10-36 et seq., and;

WHEREAS, the FUND was approved to become operational by the Departments of Insurance and Community Affairs and has been operational since that date, and;

WHEREAS, the statutes and regulations governing the creation and operation of a joint insurance fund, contain certain elaborate restrictions and safeguards concerning the safe and efficient administration of the public interest entrusted to such a FUND;

WHEREAS, the governing body of Borough of Kinnelon hereinafter referred to as "LOCAL UNIT" has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the LOCAL UNIT hereby agrees as follows:

- i. Become a member of the FUND for the period outlined in the LOCAL UNIT's Indemnity and Trust Agreements.
- ii. Will participate in the following type (s) of coverage (s):
 - a.) Health Insurance and/or Dental and/or Prescription as defined pursuant to N.J.S.A. 17B:17-4, the FUND's Bylaws, and Plan of Risk Management.
- iii. Adopts and approves the FUND's Bylaws.
- iv. Execute an application for membership and any accompanying certifications.

BE IT FURTHER RESOLVED that the governing body of the LOCAL UNIT is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the FUND as required by the FUND's Bylaws, and to deliver these documents to the FUND's Executive Director with the express reservation that these documents shall become effective only upon:

- i. Approval of the LOCAL UNIT by the FUND.
- ii. Receipt from the LOCAL UNIT of a Resolution accepting assessment.
- iii. Approval by the New Jersey Department of Insurance and Department of Community Affairs.

ADOPTED:

Date

February 19, 2026

BY:



ATTEST:



RESOLUTION 02.03.2026

AUTHORIZATION TO RENEW CONTRACT
WITH ACTION DATA SERVICES FOR
PAYROLL SERVICES

WHEREAS, the Borough of Kinnelon desires to continue the payroll services of Action Data Services; and

WHEREAS, the current contract ends June 30, 2026; and

WHEREAS, it is desired to continue our contract with Action Data Services for a twelve month period from July 1, 2026, to June 30, 2027 with a one year extension to June 30, 2028.

NOW, THEREFORE, BE IT RESOLVED the Borough of Kinnelon governing body hereby authorizes the mayor to execute a contract with Action Data Services, with an annual fee of \$28,684.41

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

February 19, 2026

Karen M. Iuele
Karen Iuele, RMC
Kinnelon Borough Clerk

RESOLUTION 2.04.2026

**2025 APPROPRIATION
RESERVE BUDGET
TRANSFERS**

WHEREAS, there appears to be insufficient funds in the following reserve accounts (excepting the appropriation for Contingent Expenses or Deferred Charges) to meet the demand thereon for the balance of the reserve year.

NOW, THEREFORE, BE IT RESOLVED, not less than two-third of all the members thereof affirmatively concurring that in accordance with the provisions of R.S. 40A:4-58, part of the surplus in the accounts heretofore mentioned be and the same hereby transferred to the account being insufficient to meet the reserve year demands; and

BE IT FURTHER RESOLVED, that the Treasurer be hereby authorized and directed to make the following transfers:

Current Fund

FROM:		TO:	
DPW OE	\$ 2,500.00	Tri Boro First	\$1,000.00
		Board of Adj, OE	\$1,500.00
Totals:	\$ 2,500.00		\$2,500.00

Dated February 19, 2026



Karen M. Iuele, Borough Clerk

RESOLUTION # 02.05.2026

BE IT RESOLVED, BY THE Mayor and Council of the Borough of Kinnelon, that the Tax Collector refund 1st quarter 2026 property taxes as below:

Block 33701 Lot 104 also known as 103 Fayson Lakes Rd-\$4,768.54

Block 56504 Lot 105 also known as 15 Amira Lane-\$6,999.83

due to an overpayment made by the mortgage lender and warrant be drawn to the Cotality in the amount of \$11,768.37 for taxes that had been overpaid.

ROLL CALL:

Adopted 12/18/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido	x		X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz			X			

February 19, 2026

Judith O'Brien, CTC

Tax Collector

Borough of Kinnelon

I, Karen M. luele, Borough Clerk, Borough of Kinnelon, hereby certify this resolution to be a true copy of the resolution which was duly passed at the regular meeting of the Borough of Kinnelon May and Council February 19, 2026.

Date: 2/19/26

Karen M. luele

Karen M. luele, Borough Clerk

RESOLUTION 02.06.2026

AUTHORIZATION TO APPOINT
THOMAS F. CARROLL AS TEMPORARY
BUSINESS ADMINISTRATOR- BOROUGH OF
KINNELON

WHEREAS, the Mayor and Council of the Borough of Kinnelon wish to appoint Thomas F. Carroll as the temporary Business Administrator for the Borough of Kinnelon; and

WHEREAS, Thomas Carroll would be appointed at \$125.00 per hour/\$300.00 per meeting as of March 1, 2026; and

WHEREAS, this agreement is executed pursuant to the Local Public Contracts Law, N.J.S.A. 40:8-1 et seq; and

NOW, THEREFORE BE IT RESOLVE, by the Mayor and Council of the Borough of Kinnelon is hereby authorized to appoint Thomas Carroll as the Temporary Business Administrator for the Borough of Kinnelon at \$125.00 per hour/\$300.00 per meeting.

Adopted: February 19, 2026



Karen M. Luele, RMC
Borough Clerk

RESOLUTION 02.07.2026

AUTHORIZING HIRING 2
PROBATIONARY POLICE OFFICER
FOR THE KINNELON POLICE
DEPARTMENT

WHEREAS, the Kinnelon Police Department wishes to hire 2 new Probationary Police; and

WHEREAS, the Mayor and Council of the Borough of Kinnelon due hereby authorize the Chief of Police to hire 2 new Probationary Police Officers.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Kinnelon authorize the hiring of 2 new Probationary Police Officers.

February 19, 2026

Karen M. Iuele

Karen M. Iuele, RMC
Borough Clerk

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

CERTIFICATION

I, Karen M. Iuele, Municipal Clerk, do hereby certify this to be a true copy of a resolution duly adopted at the regular meeting of the Kinnelon Mayor and Council held on February 19, 2026.

Dated: February 19, 2026

Karen M. Iuele

Karen M. Iuele, RMC
Borough Clerk

RESOLUTION 02.08.2026

AUTHORIZATION FOR SMOKE RISE
FIREWORKS JULY 3, 2026
(RAIN DATE SEPTEMBER 5, 2026)

WHEREAS, the residents of Smoke Rise wish to hold its annual fireworks display on July 3, 2026, with rain date of September 5, 2026, at the Smoke Rise Beach: and

WHEREAS, the Kinnelon Fire Prevention Bureau requires a resolution be passed prior to the issuance of their permit:

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Kinnelon hereby grants permission at their regular meeting of the Mayor and Council on February 19, 2026, for Smoke Rise to hold their annual fireworks display at the Smoke Rise Beach on July 3, 2026 with a rain date of September 5, 2026.

Dated: February 19, 2026


Karen M. Iuele, Acting Borough Clerk

RESOLUTION 02.09.2026

AUTHORIZING HIRE OF
BRAD STEINBERGER AS A
FULL TIME DPW MAINTAINER

WHEREAS, the Kinnelon Department of Public Works wishes to hire Brad Steinberger as a Full Time Department of Public Works Maintainer; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough Of Kinnelon hire Brad Steinberger, as a Full-Time worker for the Department of Public Works, at Step 2- \$24.65 an hour plus .50 per hour on their base pay for CDL License. Pending result of background check his start date will be February 23, 2026.

CERTIFICATION

I, Karen M. luele, Borough Clerk, do hereby certify this to be a true copy of a resolution duly adopted at the Mayor and Council regular meeting of the Kinnelon Mayor and Council held on February 19, 2026.

Dated: February 19, 2026

Karen M. luele

Karen M. luele, RMC
Borough Clerk

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirdo			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

RESOLUTION 02.10.2026

AUTHORIZING HIRE OF
JACK HAMILTON AS A
FULL TIME DPW MAINTAINER

WHEREAS, the Kinnelon Department of Public Works wishes to hire Jack Hamilton as a Full Time Department of Public Works Maintainer; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough Of Kinnelon hire Jack Hamilton, as a Full-Time worker for the Department of Public Works, at Step 3 - \$26.39. Pending result of background check.

CERTIFICATION

I, Karen M. luele, Borough Clerk, do hereby certify this to be a true copy of a resolution duly adopted at the Mayor and Council regular meeting of the Kinnelon Mayor and Council held on February 19, 2026.

Dated: February 19, 2026

Karen M. luele
Karen M. luele, RMC
Borough Clerk

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

RESOLUTION 2-11-2026

Whereas, the Kinnelon Borough
(formal name of organization)

desires to apply for and obtain a grant from the New Jersey Department of Community Affairs

for approximately \$ 80,000 to carry out a project to _____
(dollar amount of request)

replace all bulb lighting with
(briefly describe the project)

LED lighting & fixtures at the Boonton Avenue recreational facility

Be it therefore RESOLVED,

1) that the Kinnelon Borough
(formal name of organization)

does hereby authorize the application for such a grant; and,

2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the fully executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between

Kinnelon Borough
(formal name of organization)

and the New Jersey Department of Community Affairs.

Be it further RESOLVED, that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

[Signature]
(signature)
James Fred
(type or print name)
mayor
(title)

[Signature]
(signature)
Karen Iuele
(type or print name)
Clerk
(title)

CERTIFICATION:

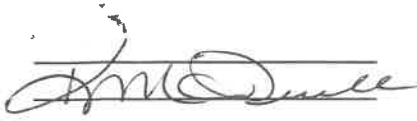
I, Karen M. Iuele, the Borough Clerk,
(name of Board Secretary / Government Clerk) (title of position - Board Secretary or Government Clerk)
of Borough of Kinnelon
(formal name of organization)

hereby certify that at a meeting of the Board of Directors / Governing Body held on 2-11-2026
(meeting date)

the above RESOLUTION was duly adopted.

AFFIX GOV'T,
CORPORATE OR

NOTARY SEAL (12/03)

A handwritten signature in dark ink, appearing to read "J. M. D. Smith", is written over two horizontal lines.

(Signature of Secretary of
the Board of Directors or
Government Clerk)

RESOLUTION 02.12.2026

AUTHORIZATION FOR D&B SERVICE GROUP
FOR MAINTENANCE AGREEMENT ON THE
KINNELON MUNICIPAL COMPLEX

WHEREAS, the Borough Council of the Borough of Kinnelon, County of Morris, State of New Jersey do hereby wish to authorize for D&B Service Group for the Maintenance on the Kinnelon Municipal Complex; and

WHEREAS, D&B will perform all services consistent with manufacturers recommendations using factory-trained technicians who specialize in HVAC; and

WHEREAS, the Proposal and Agreement service for the period of February 1, 2026 – January 31, 2027 is \$18,780.00.

- Straight time \$190.00/hr
- OT/Saturday \$270.00/hr
- Sunday/Double/Holiday \$270.00/hr
- Truck Charge \$125.00

NOW, THEREFORE, BE IT RESOLVED, by the Borough of Kinnelon, County of Morris, State of New Jersey, that the Borough Council of the Borough of Kinnelon hereby agree to the Maintenance Agreement with D&B Service Group for the maintenance on the HVAC system.

Dated: 02.12.2026



Karen M. Luele, Borough Clerk

RESOLUTION NO. 02.13.2026

A RESOLUTION OF THE MAYOR and COUNCIL OF THE BOROUGH OF KINNELON

AUTHORIZING THE ADOPTION OF THE

2025 MORRIS COUNTY, NEW JERSEY HAZARD MITIGATION PLAN UPDATE

WHEREAS, all jurisdictions within Morris County have exposure to hazards that increase the risk to life, property, environment, and the County and local economy; and

WHEREAS; pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

WHEREAS, the Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre and post disaster hazard mitigation programs; and

WHEREAS; a coalition of Morris County municipalities with like planning objectives has been formed to pool resources and create consistent mitigation strategies within Morris County; and

WHEREAS, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating and revising this strategy;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Kinnelon:

- 1) Adopts in its entirety, the 2025 Morris County Hazard Mitigation Plan Update (the "Plan") as the jurisdiction's Hazard Mitigation Plan and resolves to execute the actions identified in the Plan that pertain to this jurisdiction.
- 2) Will use the adopted and approved portions of the Plan to guide pre- and post-disaster mitigation of the hazards identified.
- 3) Will coordinate the strategies identified in the Plan with other planning programs and mechanisms under its jurisdictional authority.
- 4) Will continue its support of the Mitigation Planning Committee as described within the Plan.
- 5) Will help to promote and support the mitigation successes of all participants in this Plan.
- 6) Will incorporate mitigation planning as an integral component of government and partner operations.
- 7) Will provide an update of the Plan in conjunction with the County no less than every five years.

PASSED AND ADOPTED on this 12th day of February 2026 by the following vote:

AYES: Six (6)

NOES: None

ABSENT: None

ABSTAIN: None

Adopted 02/12/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido			X			
Mabey			X			
Frank			X			
Lewis		x	X			
Reckler	x		X			
Harriz			X			

James J. Freda

Mayor James J. Freda

Elected Official, Borough of Kinnelon

ATTEST Karen M. Iuele

Karen M. Iuele, RMC

Borough Clerk

Borough of Kinnelon

RESOLUTION 02.14.2026

SALARY PAY INCREASE RESOLUTION FOR
DAVID A. AMADIO, KINNELON PUBLIC
DEFENDER

WHEREAS, as of January 1, 2026 the Council wish to increase David Amadio, Kinnelon Public Defender from \$4,000.00 to \$6,000.00 per year.

NOW, THEREFORE BE IT RESLOVED, by the Mayor and Council of the Borough of Kinnelon, to increase David A. Amadio, Kinnelon Public Defender pay to increase from \$4,000.00 to \$6,000.00per year commencing as of January 1, 2026.

Dated: February 19, 2026

Karen M. Iuele
Karen M. Iuele, RMC
Borough Clerk

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido	x		X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz			X			

RESOLUTION 02.15.2026

AUTHORIZING THE BICYCLE CLUB OF NORTH
JERSEY TO USE THE MUNICIPAL BUILDING
GROUNDS AS A REST STOP AND REFRESHMENT
AREA ON AUGUST 30, 2026

WHEREAS, the Bicycle Club of North Jersey will be holding their annual Ramapo Rally which will attract over 1,000 riders of all abilities to ride routes from twelve to one hundred and twenty-five miles; and

WHEREAS, one such route will lead the riders from Campgaw through the Borough of Kinnelon between the hours of 8:00 a.m. and 11:00 a.m.; and

WHEREAS, the Bicycle Club of North Jersey is a proud sponsor of Camp Sunshine and Camp Snowflake which provides special activities for multiply-disabled children and young adults for both Monday through Friday activities during the summer and Saturdays during the school year.

WHEREAS, the Club has again requested to set up refreshment tables and port-o-johns in the municipal parking area for the bicyclists; and

WHEREAS, the Club has assured the Borough they will provide a \$1,000,000.00 insurance certificate with the Borough as insured and will treat the municipal grounds with their greatest respect.

NOW, THEREFORE, BE IT RESOLVED that the Kinnelon Mayor and Council hereby approve the use of the municipal parking area for a refreshment and rest stop for those bicyclists who participate in the Ramapo Rally on Sunday August 30, 2026; and

BE IT FURTHER RESOLVED that the Bicycle Club of North Jersey shall provide an insurance certificate to the Borough in the amount of \$1,000,000.00; and

BE IT FURTHER RESOLVED that the Chief of Police be provided with a traffic plan, estimate of riders as well as an estimated time of arrival and departure.

Dated: February 19, 2026

Karen M. Iuele
Karen M. Iuele, RMC
Borough Clerk

Adopted 02/19/2026 on roll call vote as follows:

	Introduced	Seconded	AYES	NAYES	ABSENT	ABSTAIN
Chirido			X			
Mabey		x	X			
Frank			X			
Lewis			X			
Reckler			X			
Harriz	x		X			

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirido, Yes; Councilman R. Reckler, Yes;
Councilman E. Harriz, Yes; Councilman R. Lewis, Yes.

The Treasurer's Report for February 2026 indicates we started out with cash on hand as of December 31, 2025, in the amount of \$11,772,009.62
Receipts for the month of January totaled \$2,646,239.98 with disbursements amounting to \$5,096,396.71.
The new balance on hand on January 31, 2026, was \$9,321,852.89

During the month of January 2026, the Tax Collector's office processed a total of \$2,895,257.30.

A total of \$34,146.86 was collected in interest for the month of January 2026.

Ordinance 01-2026

This ordinance was introduced and passed on first reading at a regular meeting of the Governing Body held on January 15, 2026.

Mayor Freda read the following notice and ordinance in full and stated that the notice has been published as required by law, a copy was posted on the Municipal Building Bulletin Board, and additional copies were made available to the public.

ORDINANCE 01-2026
AN ORDINANCE ESTABLISHING SALARY RANGES
FOR THE BOROUGH OF KINNELON

BE IT ORDAINED BY the Kinnelon Mayor and Council, County of Morris, State of New Jersey, as follows:

The following schedule of salaries indicates the salary ranges for the hereinafter listed positions of employment within the Borough of Kinnelon as of January 1, 2026. The Governing Body shall, from time to time, by resolution, fix the specific salaries for persons employed in positions within the applicable salary range. Any and all references to the library personnel are for documentation purposes only, to the extent of allowing the Borough Finance Department the ability to process the library's payroll.

Title	Minimum	Maximum	Per
Mayor	\$3,000.00	\$10,000.00	Year
Council	\$1,000.00	\$6,000.00	Year
Business Administrator	\$50,000.00	\$155,000.00	Year
Chief Municipal Financial Officer FT	\$120,000.00	\$155,000.00	Year
Chief Municipal Financial Officer PT	\$60,000.00	\$80,000.00	Year
Treasurer	\$85,000.00	\$100,000.00	Year
Payroll Clerk	\$50,000.00	\$70,000.00	Year
Accounts Payable	\$45,000.00	\$65,000.00	Year
Adm Assistant/Finance	\$44,000.00	\$60,000.00	Year
Adm Assistant/Finance - PT	\$15.50	\$35.00	Hour
Borough Clerk/Department Manager	\$95,000.00	\$125,000.00	Year
Clerk Assistant - FT	\$44,000.00	\$64,000.00	Year
Clerk Assistant - PT	\$20,000.00	\$45,000.00	Year
Tax Collector - FT	\$65,000.00	\$85,000.00	Year
Tax Collector - PT	\$25,000.00	\$45,000.00	Year
Deputy Tax Collector	\$50,000.00	\$70,000.00	Year
Tax & Utility Collector	\$40,000.00	\$58,000.00	Year
Tax & Utility/Office Asst - PT	\$15.50	\$30.00	Hour
Tax & Utility Clerk	\$40,000.00	\$53,000.00	Year
Assessor/Appraiser - PT	\$30,000.00	\$50,000.00	Year
Assessor Assistant - PT	\$15,000.00	\$35,000.00	Year
Forester	\$2,000.00	\$4,000.00	Year
Museum Docents	\$15.50	\$20.00	Hour

Historic Preservation Secretary	\$20.00	\$25.00	Hour
Property Maintenance, Zoning Inspector	\$36,300.00	\$52,000.00	Year
Technical Assistant to the Const. official/Property Maintenance Inspector	\$50,000.00	\$65,000.00	Year
Zoning Officer	\$15,000.00	\$18,500.00	Year
Health Department Secretary	\$1,500.00	\$3,000.00	Year
Registrar	\$4,000.00	\$8,000.00	Year
Deputy Registrar	\$1,000.00	\$2,500.00	Year
Temporary Assistant Clerical	\$15.50	\$30.00	Hour
DPW Superintendent	\$130,000.00	\$155,000.00	Year
DPW Foreman	\$107,000.00	\$130,000.00	Year
DPW Assistant Foreman	\$85,000.00	\$100,000.00	Year
Snow/Weather Emergency Callouts (Supervisor/Foreman/Assist Foreman)	\$275.00	\$350.00	Call Out Day
DPW Secretary - P/T	\$30,000.00	\$55,000.00	Year
DPW Maintainers	\$21.00	\$45.00	Hour
DPW Water Maintainers	\$21.00	\$45.00	Hour
DPW Welding Certificate	\$1,000.00	\$1,000.00	Year
DPW Mechanic/ASE Truck Certificate	\$1,000.00	\$1,000.00	Year
DPW CDL License	.50	.50	Per Hour Extra
Recycling Watchman	\$16.00	\$19.00	Hour
Temporary PT DPW/B&G/Recycling	\$15.50	\$18.00	Hour
Recreation Field Stipend	\$3,000.00	\$4,500.00	Year
Municipal Court Judge	\$35,000.00	\$50,000.00	Year
Municipal Court Administrator	\$75,000.00	\$90,000.00	Year
Deputy Court Clerk/Violations Clerk PT	\$15.50	\$30.00	Hour
Police Chief	\$178,000.00	\$195,500.00	Year
Police Captain	\$168,000.00	\$185,000.00	Year
Police Lieutenant	\$161,000.00	\$178,000.00	Year
The following uniformed officers, Sergeant and Patrol Officer shall be paid pursuant to a collective bargaining agreement. The Detective pay shall be paid pursuant to a collective bargaining agreement.			
Special Class 3 Patrol	\$35.00	\$45.00	Hour
Police Secretary	\$45,000.00	\$60,000.00	Year
Court Call Out	\$30.00	\$50.00	Hour
Police Dispatchers Scheduler - PT	\$15,000.00	\$25,000.00	Year
Police Dispatchers PT	\$20.00	\$30.00	Hour
Crossing Guards	\$17.00	\$30.00	Hour
Matron	\$18.00	\$40.00	Hour

Library Director	\$95,000.00	\$125,000.00	Year
Library Youth Services	\$60,000.00	\$85,000.00	Year
Library Admin Asst/Office Manager	\$54,000.00	\$68,000.00	Year
Head of Circulation	\$50,000.00	\$65,000.00	Year
Library Assistant - PT	\$17.00	\$25.00	Hour
Records Clerk - PT	\$17.00	\$25.00	Hour
Reference Librarian - PT	\$17.00	\$25.00	Hour
Technical Service Library -PT	\$17.00	\$25.00	Hour
Youth/Teen Services Asst-PT	\$17.00	\$35.00	Hour
Programmer/Publicist - PT	\$18.00	\$30.00	Hour
Adult Services-PT	\$17.00	\$25.00	Hour
Marketing coordinator-PT	\$25.00	\$45.00	Hour
Recreation Director	\$85,000.00	\$100,000.00	Year
Recreation Assistant - PT	\$20.00	\$30.00	Hour
Recreation Summer Staff - PT	\$15.00	\$40.00	Hour
Graphic Design	\$3,500.00	\$5,000.00	Year
Qualified Purchasing Agent	\$12,000.00	\$16,000.00	Year
Web Master	\$2,500.00	\$4,500.00	Year
Environmental Secretary	\$2,500.00	\$7,000.00	Year
Open Space Secretary	\$20.00	\$30.00	Hour
Planning Board Secretary	\$5,000.00	\$20,000.00	Year
Board of Adjustment Secretary	\$1,000.00	\$5,000.00	Year
OEM Secretary	\$2,000.00	\$5,000.00	Year

Further, Be It Ordained by the Mayor and Council, that any permanent new hire may be paid less than the minimum and paid less than the minimum for a period of up to three (3) years pursuant to a resolution establishing the employee's specific salary.

Certified to be a true copy of an ordinance which was introduced at the regular meeting of the Kinnelon Mayor and Council held on January 15, 2026 and adopted on February 19, 2026

Mayor Freda announced the meeting was open to hearing any objections to this ordinance that may be presented by any taxpayer of the Borough of Kinnelon, and all parties in interest, and citizens. Hearing none. Mayor Freda brought it back to the dais, does anyone from the council wish to speak on this ordinance at this time. Hearing none, Mayor Freda asked the Borough Clerk to call the roll on the passage thereof, and the vote was a follow.

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirdo, Yes; Councilman R. Reckler, Yes;
Councilman E. Harritz, Yes; Councilman R. Lewis, Yes.

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF KINNELON AND PROVIDING FOR
LICENSING AND REGULATION OF MASSAGE,
BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS**

Mayor Freda read the following notice and ordinance in full and stated that the notice has been published as required by law, a copy was posted on the Municipal Building Bulletin Board, and additional copies were made available to the public.

BOROUGH OF KINNELON

ORDINANCE NO. 02-2026

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KINNELON AND PROVIDING FOR LICENSING AND REGULATION OF MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS

WHEREAS, pursuant to N.J.S.A. 40:48-1 and N.J.S.A. 40-48-2, a governing body of a municipality may make and enforce ordinances, regulations, rules and bylaws not contrary to the laws of this State or the United States, as it may deem necessary and proper for the good of the government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by law; and

WHEREAS, neither the State of New Jersey's regulation of therapists, N.J.S.A. 45:11-53, et seq., known as the "Massage and Bodywork Therapist Licensing Act", nor the companion New Jersey Administrative Code provisions, N.J.A.C. 13:37A-1.1, et seq., which are designed to effectuate the statutory provisions, abrogate a municipality's ability to regulate the opening and maintenance of massage parlors and the practices of massage therapists therein; and

WHEREAS, the Borough Council finds that the business of operating a massage parlor is business effecting the public health, safety and general welfare of the municipality and its inhabitants and that licensing the business is necessary to appropriately regulate these businesses and protect the public health, safety, and welfare.

THEREFORE, BE IT ORDAINED by the Council of the Borough of Kinnelon, in the County of Morris and State of New Jersey, as follows:

Section 1. The Revised General Ordinances of the Borough of Kinnelon shall be amended by the inclusion of new Chapter 39 which shall be entitled "Licensing and Regulation of Massage, Bodywork and Somatic Therapy Establishments," and shall read, in its entirety, as follows:

Chapter 39

Licensing and Regulation of Massage, Bodywork and Somatic Therapy Establishments

§ 39-1. Purpose; definitions.

A. Purpose.

The purpose of this chapter is to protect the public health and general welfare by licensing and regulating establishments that provide Massage, Bodywork and Somatic Therapy services, as defined in this chapter and to more effectively prohibit the sale of services that threaten the health safety and welfare of the public.

B. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning stated herein unless their use in the text of this chapter clearly demonstrates different meaning. The word "shall" is always mandatory and not merely directory.

CHAIR MASSAGE ESTABLISHMENT

Any massage, bodywork and somatic therapy establishment which strictly limits its service to massages that are administered to clients who are seated in a massage chair and remain fully clothed in their own personal clothing for the duration of the service. Furthermore, no bare skin contact is made or permitted with the client, nor are any oils, creams or lotions applied to the client. The massage is strictly limited to the back, neck and shoulders.

MASSAGE, BODYWORK AND SOMATIC THERAPIES

Any systems of activity of structured touch which include, but are not limited to, holding, applying pressure, position and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such applications may include, but are not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neuro-myo-facial education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

MASSAGE, BODYWORK AND SOMATIC THERAPIST

Any person licensed pursuant to the provisions of the Massage and Bodywork and Therapist Licensing Act, N.J.S.A. 45:11-53.

MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT

Any establishment wherein massage, bodywork and/or somatic therapies are administered or are permitted to be administered, when such therapies are administered for any form of consideration.

§ 39-2. License required.

- A. No person, firm or corporation shall operate any establishment or utilize any premises in the municipality as or for a massage, bodywork and somatic therapy establishment unless or until there has been obtained a license for such establishment or premises from the Borough Council, in accordance with the terms and provisions of this chapter.
- B. No person shall practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, within the Borough of Kinnelon unless he or she has a valid and subsisting massage, bodywork and somatic therapist's license issued to him or her by the New Jersey Board of Massage and Body Work Therapy, pursuant to the terms and provisions of N.J.S.A. 45:11-53 et seq.

§ 39-3. Designation of Health Department as implementing and enforcing Township agency; application for establishment license; requirements.

The Health Department is designated as the agency of the Borough responsible for the implementation and enforcement of this ordinance. Any person desiring a massage, bodywork and somatic therapy establishment license shall submit a written application for licensure on forms promulgated by the Health Department. The completed application shall be returned to the Health Department for processing. In addition to the completed application the applicant, who shall be the principal owner of the business, they may be required to submit additional documentation, including but not limited to a sketch, floor plan, building layout, diagram, zoning permit and/or Certificate of Occupancy as applicable to the application. The application form shall contain the following information:

- A. The business name and type of ownership of the business, i.e., whether sole proprietorship, partnership, corporation or any other form of organization formally recognized by the State of New Jersey. Proof of the individual or entity's registration with the State of New Jersey such as a Business Registration Certificate (BRC) must be provided.
- B. The trade name under which the business is to be conducted, if being used.
- C. The address and all telephone numbers associated with the business, including facsimile and email addresses, wherever business is to be conducted.
- D. A complete list of the names and residence addresses of all massage, bodywork and somatic therapists and employees of the business and the name and residence address of the owner, manager and any other persons principally in charge of the operation of the business. Detailed job descriptions of those employees whose duties do not include those of a therapist must be included. It shall be the responsibility of the owner/operator to maintain an updated employee list and provide same to the Health Department upon request and make it available during all inspections. All employees must be in possession of a valid, photographic I.D. whenever they are on premises. Employees

must present the said I.D. upon request to any Health Department officials or other officers of the municipality when they are acting in their official capacity.

- E. Proof of current licenses issued by the State of New Jersey pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11-53 et seq. for all massage, bodywork and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment.
- F. The following personal information shall be provided in the application form for an individual owner or, if a corporation, for each officer and each director; if a partnership, including limited partners, for each partner; and for the manager or other person principally in charge of the operation of the business:
 - (1) The name, complete residence address and residence telephone number.
 - (2) Copy of a current driver's license or other government issued photo I.D.
 - (3) Two front-face portrait photographs taken within 30 days of the date of the application and shall be approximately 2 inches by 2 inches in size (passport size).
 - (4) The massage therapy or similar business history and experience, including, but not limited to, whether or not such person(s) has previously operated in this or another municipality or state, if operated under a license or permit. If so, whether such license or permit was ever denied, revoked or suspended and the reason for said action(s).
 - (5) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- G. Upon filing a completed application with the Health Department, the applicant, at the applicant's expense, shall be required to submit to a background check and fingerprinting by the municipal police department and/or a private vendor authorized by the State of NJ to perform such tasks. Upon receipt of the results of the fingerprint check and subsequent criminal history check, the Health Department shall notify the applicant of said results.
- H. The submitted application must be accompanied by a copy of the signed lease for the property location where the proposed massage establishment will be in operation. The applicant must be listed as the lessee on the lease.

§ 39-4. License fee and renewal fee; license term; reinspection fee.

- A. Every applicant for a license to maintain, operate or conduct a massage, bodywork shall pay an annual fee of \$500 at the time of new application and for each subsequent annual renewal.
- B. All fees for licenses under this Chapter shall be paid to the Health Department office prior to being considered for approval to operate. All fees are non-refundable and are not transferable. All licenses issued under this chapter are subject to a \$100. late fee if the license is not renewed by January 31st.

- C. Licenses shall be issued by the Borough after approval by the Borough Council for a term of one year commencing on January 1st and expiring December 31st. The license fee and expiration date of December 31st shall remain the same regardless of when during the year the license is issued.
- D. Should a reinspection of a massage establishment become necessary because of a conditional or unsatisfactory inspection rating, as they are defined in this chapter, the establishment shall be subject to a reinspection fee in an amount equal to the annual license fee for that establishment. The establishment shall be subject to a reinspection fee for each subsequent reinspection performed until the violations are corrected and the establishment is returned to a satisfactory rating. The fee shall be paid within 10 days of the notification of the said re-inspection fee requirement.

§ 39-5. Requirements for license approval

- A. The applicant for a massage, bodywork and somatic therapy establishment license is responsible to obtain all permits, licenses, certificates of occupancy and approvals that are applicable or required by the State of NJ and the municipality, including but not limited to the Construction Code Official, the Fire Bureau, the Police Department, and the Planning and Zoning Department. Written proof that the establishment is in compliance with all applicable requirements shall be provided to the Health Department by the applicant. Failure to do so will result in a denial of the application. For those establishments in operation who have not provided said written proof or are discovered to not be in possession of the required approvals, certificates, licenses and/or permits, the license to operate shall be suspended and the operation shall cease immediately until the establishment is in full compliance.
- B. All massage tables, bathtubs, shower stalls, steam or bath areas, restrooms and floors shall have surfaces which may be readily disinfected, and shall be maintained in a sanitary condition and regularly cleaned and disinfected by a method approved by the Health Department.
- C. Each massage, bodywork and somatic therapy area/room shall have an adequate area within each room for clients to store personal items.
- D. The owner or operator shall submit a disinfection/sterilization plan for non-disposable instruments and materials used in administering massages, bodywork and/or somatic therapies, including laundering procedures for linens, cloths, towels, garments, etc., to the Health Department for approval. The establishment must operate in compliance with the approved plans. Such non-disposable instruments and materials shall be disinfected, sterilized and/or laundered after use on each patron and stored in a clean and sanitary manner.
- E. A shower area, dressing area and restrooms for clients shall be provided within the facility; such areas shall be maintained in a clean and sanitary condition at all times. Doors to such dressing rooms, restrooms and shower areas shall open inward and shall be self-closing.
- F. Handwashing facilities as set forth in this chapter shall be operational and fully stocked with soap and paper towels.

§ 39-6. License validity/transferability.

- A. Any license granted under this chapter shall only be valid to the person to whom it was granted and for the location as indicated on the application.
- B. Licenses shall not be transferable between individuals, entities or locations.

§ 39-7. Suspension or revocation of establishment license.

- A. Massage establishment licenses may be suspended by the Health Officer acting on behalf of the Borough or revoked by the Borough Council for reasons that include but are not limited to the following causes.
 - 1. Fraud, misrepresentation or false statement in the establishment's license application.
 - 2. Fraud, misrepresentation or false statement made to the Health Officer or his/her designee or any duly appointed municipal police officer while operating the licensed business in the municipality.
 - 3. Fraud, misrepresentation or false statement made to customers or to the general public whether verbally, with signage or advertising, in any form, while operating the licensed business in the municipality.
 - 4. Conducting business within the municipality in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public, as determined by the Health Officer.
 - 5. The establishment is an existing or threatened menace to the public health as determined by the Health Officer.
 - 6. Conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and any crime involving dishonesty.
 - 7. The conviction of an employee of the establishment for a violation of the prohibited acts set forth in Section 29-12 shall create a rebuttable presumption that the owner/operator had actual or constructive knowledge of the violation resulting in the conviction and shall constitute cause for the suspension or revocation of the establishment license.
 - 8. The owner and/or operator or any employee refuses to permit, or hinders or obstructs the Health Officer, his/her designee or any duly authorized municipal police officer to inspect the premises or the operations therein at any time.
 - 9. For repeat violations of this chapter or for any violations related to using the premises for residential purposes, lodging or boarding, as determined by the Health Officer.
 - 10. For being posted unsatisfactory as a result of an inspection or complaint investigation.

- B. A person, firm, corporation, or other entity whose license has been revoked by the Borough Council or suspended shall close the establishment and request all patrons to vacate the premises and/or the establishment ceases all operations associated with and allowed by the suspended or revoked license. The establishment shall refrain from all business activities for which the license was obtained until the Health Department authorizes operations or parts thereof to commence or the Borough Council authorizes operations to commence at the conclusion of the appeal process that is set forth in this chapter.
- C. The licensee shall be entitled to a hearing before the Borough Council for the purpose of seeking reinstatement of a suspended or revoked license. The licensee shall submit a written request for the hearing to the Municipal Clerk's Office within five business days of the suspension or revocation. The Borough Council shall conduct the hearing no more than 15 business days from the date the written request was received. A business day shall be defined for the purposes of this chapter as any weekday, Monday through Friday, except for holidays in which municipal offices are closed.
- D. Written notice of the time and place of such hearing shall be served upon the licensee by the Municipal Clerk or his/her designee at least five business days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking, cancelling, or suspending such license. Notice may be given either by personal delivery thereof to the person identified on the license application or may be sent in a sealed envelope, addressed to the person and business address that appears on such license application, by simultaneously sending the notice both regular mail and certified mail, return receipt requested, via the United States Postal Service.
- E. At the hearing before the Borough Council, the licensee shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Borough Council, the complaint may be dismissed, or if the Borough Council concludes that the charges have been sustained and/or substantiated, it may uphold the revocation or suspension and deny reinstatement of the license or stipulate the conditions required for reinstatement of the license.
- F. If any such license shall have been revoked, neither the holder thereof nor any person acting for him or her, directly or indirectly, shall be entitled to another license to carry on the same business within the municipality.

§ 39-8. Display of license.

The massage, bodywork and somatic therapy establishment shall display its license as well as the license of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment. A two inch by two-inch, passport sized, color photo of the licensed therapist must be affixed to the displayed license of each and every massage, bodywork and somatic therapist employed by the establishment. In addition, all therapists on site must have in their possession a government issued photo I.D.

§ 39-9. Operating requirements.

Every massage, bodywork and somatic therapy establishment shall comply with the following:

- A. Every portion of the massage, bodywork and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- B. Price rates for all services shall be prominently posted in the reception areas in a location available to all prospective customers.
- C. All employees, including massage, bodywork and somatic therapists, shall be clean and wear clean, nontransparent outer garments.
- D. All massage, bodywork and somatic therapy establishments shall have clean laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- E. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage, bodywork or somatic therapist.
- F. All walls, ceilings, floors in service areas and pools, showers, bathtubs, sinks, steam rooms, laundry rooms, restrooms and massage tables must be constructed of durable, cleanable and non-porous materials which may be readily disinfected. All areas of the establishment shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat-rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned and sanitized each day the business is in operation. Bathtubs and showers shall be kept dry, clean and sanitary at all times.
- G. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be from an approved source and kept in clean closed containers or cabinets. Single service products shall be used when available.
- H. Animals, except for Service dogs, shall not be permitted in the massage work area.
- I. Adequate hand-washing facilities for employees to maintain clean hands and arms during hours of operation shall be provided inside every room where massage therapy or other spa services are delivered to clients. Massage, bodywork and somatic therapists shall wash his or her hands and arms up to and including the elbows in warm running water, using a proper soap before administering a massage, bodywork or somatic therapy to a patron. All restroom and workstation hand wash sinks are to be stocked with liquid hand soap and paper towels. Dispensers for soap and paper towels are to be wall mounted. Restroom hand wash sinks must have signs conspicuously displayed with the following language: "Employees must wash hands after using the restroom". In the case of chair massage establishments in which hand washing facilities are not available, the therapist shall disinfect their hands with an anti-bactericidal hand sanitizer.
- J. No massage establishment shall knowingly serve any patron infected with any fungus or other skin infections, nor shall service be performed on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely provided with a massage, bodywork or somatic therapy, prescribing the conditions thereof. No therapist may perform service if they themselves are infected with any fungus or other skin infections, skin inflammation or eruptions

unless a medical physician duly licensed by the State of New Jersey has certified that a therapist may safely provide the massage, bodywork or somatic therapy, prescribing the conditions thereof.

- K. A written disinfection plan for all linens, towels and reusable instruments used by the establishment must be approved by the Health Department, kept on site and available for review by the inspecting official at all times. The establishment must operate in conformance with the approved plan at all times.
- L. Client records must be kept for each and every client who receives services from the massage establishment. These records shall include at a minimum an intake form filled out by each customer to include their name, address, phone number, date of birth, date of service, the specific service they've received, the licensed therapist's full name, their NJ State Massage and Bodywork Therapist License number and the signature of the client. These records must be stored on the premises and available for review by the Health Department at all times for a period of not less than 3 years of the date the service was performed.
- M. Signage specifying the age restriction set forth in 39-12 H and the required record keeping requirements set forth in 39-9 L must be posted in English, at a minimum, and displayed conspicuously and clearly readable to the customer from the entrance of the establishment at all times.
- N. The massage establishment shall conform to and observe all applicable rules, regulations and prohibitions set forth by the NJ Board of Cosmetology.
- O. Adequate, clean and sanitary restrooms shall be provided for patrons during all hours of operation. In the event that male and female patrons are to be served simultaneously, separate restroom, bathing, dressing, locker and massage room facilities shall be provided. Doors to such restrooms shall open inward and shall be self-closing.
- P. The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and material shall be disinfected after each use.

§ 39-10. Inspections.

- A. The Health Department shall inspect each massage, bodywork and somatic therapy establishment granted a license under the provisions of this chapter as often as they deem necessary during the establishment's hours of operation and any other times when persons are on the premises for the purpose of determining whether the establishment is in compliance with the provisions of this chapter and/or any other applicable rules, regulations or laws.
- B. It shall be unlawful for any person to deny the Health Officer, his or her designee, or any certified or licensed municipal inspectors or sworn municipal police officers in the performance of their duties access to the premises or to hinder such officer or inspector in any manner.
- C. Inspection placards shall be posted in a conspicuous location where it may be readily observed at eye level by all patrons before or immediately upon entering the

establishment. The inspection placard shall reflect the level of compliance with this chapter. The inspection placards shall reflect one of three ratings as follows:

1. Satisfactory rating issued, at the discretion of the Health Department inspector, when establishments are largely or completely in compliance with this chapter;
2. Conditionally satisfactory rating issued, at the discretion of the Health Department inspector, when violations of this chapter are observed and documented;
3. Unsatisfactory rating issued, at the discretion of the Health Department inspector, when repeat, flagrant and /or serious violations of this chapter are observed and documented. An unsatisfactory rating will require the license to be suspended in accordance with §39-7 and the establishment or portions thereof operating under the said license to cease operations until all violations are corrected.

§ 39-11. Sleeping quarters.

No part of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage, bodywork and somatic therapy establishment except for customers in limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment. This provision shall not preclude the location of a massage, bodywork and somatic therapy establishment located in separate, independent, operating spaces of a building that houses businesses operating as a hotel, health club or other business.

§ 39-12. Prohibited acts.

- A. No owner or manager of a massage, bodywork and somatic therapy establishment shall tolerate in his or her establishment any activity or behavior prohibited by the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering, exposing or public communication of obscene material; nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this section.
- B. A conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such establishment, to the extent that it constitutes sufficient cause for the immediate revocation of the establishment license.
- C. The massage establishment shall not permit table showers or assisted bathing.
- D. It shall be unlawful for any person knowingly, in a massage, bodywork and somatic therapy establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person. No massage, bodywork and somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area.
- E. It shall be unlawful to advertise in a manner or in certain types of publications, websites or other media that indicates the services offered may be sexual in nature.

- F. No bulk food storage or meal preparation is permitted on premises. Re-heating of pre-made or prepackaged foods for immediate consumption by the employee during meal breaks is permitted.
- G. Personal effects, furniture, equipment, supplies or goods not specific or necessary to the operation shall not be permitted on the premises.
- H. No one under 18 years of age shall be served unless accompanied by a parent or legal guardian.
- I. Alcoholic beverages, and/or CBD, Cannabis, THC or other substances that alter consciousness shall not be stored nor consumed on the premises.
- J. Laundering is restricted to only those linens, outer protective uniforms, towels and linens used within the operation. The laundering of personal clothing and/or other items is prohibited. Personal clothing or other personal items may not be commingled with the linens or towels used in the operation nor shall personal clothing not specific to the operation be stored on the premises.
- K. Pest control chemicals or sprays are prohibited. Pest control services must be performed by NJDEP licensed pest control contractors.

§ 39-13. Exceptions.

The provisions of this section shall not apply to massage, bodywork or somatic therapies as follows:

- A. Those given in the office of a licensed physician, chiropractor or physical therapist; or
- B. Those given by a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
- C. Those given by any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
- D. Those given by a licensed barber or cosmetologist/hairstylist limited to the areas of the face, neck, scalp or upper part of the body, or for manicurists and pedicurists, as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq;
- E. Chair massage establishment as defined in Section 213-1 of this chapter are exempt from 213-9 K. thru P.

§ 39-14. Violations and penalties.

In addition to the revocation or suspension of the license as set forth under this chapter, any person who violates any provision of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$2,000 or imprisonment for a term not to exceed 90 days or by a period of community service not to exceed 90 days.

§ 39-15. Enforcement Agent.

The enforcement agent for massage, bodywork and somatic therapy licenses shall be the Health Officer, or the Health Officer designee, or any other municipal official designated by the Borough Administrator.

§ 39-16. Right of entry.

It shall be the lawful right for the Health Officer and his/her designee and sworn municipal police officers or any other person acting under and by the authority of the Health Department to enter in and upon any premises in the exercise of the powers or in the fulfillment of its or their duties conferred or imposed by law or local ordinance and the rules and regulations thereunder. Any person hindering, obstructing, delaying, resisting, preventing or interfering with such right of access shall be deemed to violate the provisions of this article.

Section 2. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Adopted this 19 day of
February, 2026.

Karen M. Iuele, RMC

Karen M. Iuele, Borough Clerk

James J. Freda

James J. Freda, Mayor

Mayor Freda announced the meeting was open to hearing any objections to this ordinance that may be presented by any taxpayer of the Borough of Kinnelon, and all parties in interest, and citizens. Hearing none. Mayor Freda brought it back to the dais, does anyone from the council wish to speak on this ordinance at this time. Hearing none, Mayor Freda asked the Borough Clerk to call the roll on the passage thereof, and the vote was a follow.

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirido, Yes; Councilman R. Reckler, Yes;
Councilman E. Harritz, Yes; Councilman R. Lewis, Yes.

Mayor J. Freda read the following notice and ordinance in full and stated that the notice has been published as required by law, a copy was posted on the Municipal Building Bulletin Board, and additional copies were made available to the public.

Ordinance No. 03-2026
Affordable Housing Ordinance
Kinnelon Borough, Morris County

**AN ORDINANCE AMENDING EXISTING CHAPTER 207 ZONING TO PROVIDE NEW
COMPREHENSIVE REGULATIONS FOR THE ADMINISTRATION OF AFFORDABLE HOUSING AND
ADDRESSING THE CURRENT REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM
HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING THE KINNELON BOROUGH
AFFORDABLE HOUSING FAIR SHARE OBLIGATION**

Whereas, the Borough of Kinnelon adopted a Round 4 Housing Element and Fair Share Plan in June 2025 that addressed the Round 4 affordable housing obligation; and

Whereas, the Borough's affordable housing regulations, Sections 102-97.1 through 102-97.7, do not reflect the recently adopted amended Fair Housing Act ("FHA") at N.J.S.A. 52:27D-301 et seq., the Fair Housing Act Regulations of the Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., or the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq.; and

Now Therefore Be It Ordained, by the Borough Council of the Borough of Kinnelon, Morris County, New Jersey, that Chapter 207 of the Code of the Borough of Kinnelon is hereby amended as follows:

SECTION 1. Article XII Affirmative Marketing Program of Chapter 207 Zoning, of the Code of the Borough of Kinnelon, shall be repealed in its entirety.

SECTION 2. Article XIV Municipal Housing Liaison of Chapter 207 Zoning, of the Code of the Borough of Kinnelon, shall be repealed in its entirety.

SECTION 3. Article XIX Mandatory Affordable Housing Set-aside of Chapter 207 Zoning is replaced in its entirety as follows:

§ 207-112 Mandatory Affordable Housing Set-aside

- A. All residential development, excluding single-family detached homes, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, over and above that which is currently permitted, whether permitted by a zoning amendment, a use variance granted by the Zoning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, shall require that an appropriate percentage of the residential units be set aside for very low, low, and moderate income households.

- 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.
- C. The affordable housing set-aside shall be 20%. Fractional affordable housing units shall be rounded down where the fraction is 0.49 units or less and rounded up where the fraction is 0.50 units or greater.
- D. The developer shall provide that half of the affordable units constructed be reserved for low-income households and that the remaining half be reserved for moderate-income households. At least 13 percent of all restricted units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very-low income units shall be counted as part of the required number of low-income units within the development.
- E. Subdivision and site plan approval shall be denied by the 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.
- F. 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.
- G. This requirement does not apply to any sites or specific zones otherwise identified in the Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

SECTION 4. Article XX Affordable Housing – 2 (AH-2) Overlay Zone of Chapter 207 Zoning is amended as follows:

(additions are shown as thus, deletions are shown as ~~thus~~)

...

§ 207-115 Permitted principal uses.

The AH-2 Overlay Zone shall permit the following uses:

~~A. Those uses permitted in the Restricted Commercial Zone.~~

A.B. Mixed-use developments consisting of ground-story retail/commercial/office with residential multifamily apartment units above. An apartment shall mean a multifamily dwelling unit contained in a building designed for or occupied by three or more families or households, living independently of each other with each unit containing one or more dwelling rooms with private bath and kitchen facilities. Each apartment shall comprise an independent, self-contained dwelling unit. Ground-story retail/commercial/office uses shall be required regardless of whether the existing building at the time of the adoption of this article is modified, expanded, or if a new building or buildings is/are constructed.

...

§ 207-119 Required conditions.

A. Minimum tract size. There shall be a minimum tract size of 12 acres.

- B. Maximum permitted density. The maximum permitted density shall be ~~six~~ 10 dwelling units per acre.

...

§ 207-121 Affordable housing.

- A. A minimum of 20% of all units shall be set aside for very-low-, low-, and moderate-income housing.
- B. All affordable units are to be constructed on site.
- C. All very-low-, low- and moderate-income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"); applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC").
- ~~D. Bedroom distribution of very low, low and moderate income housing units. The bedroom distribution of very low, low and moderate income units for affordable units constructed in the AH-2 Overlay Zone shall be as follows:~~
- ~~(1) No more than 20% of the very low, low, and moderate income units shall be one-bedroom units.~~
- ~~(2) At least 20% of the very low, low, and moderate income units shall be three-bedroom units.~~
- ~~(3) At least 30% of the very low, low, and moderate income units shall be two-bedroom units.~~
- ~~E. Very low, low and moderate income unit split. At least 50% of the affordable units will be available to very low income and low income households and the remainder of which will be available to moderate income households as defined in the FHA and UHAC and other applicable statutes and regulations. A minimum of 13% of the affordable units will be made available to very low income households, defined as households earning 30% or less of the regional median income by household size.~~
- ~~F. Procedures regarding affirmative marketing of very low, low and moderate income units and other requirements of inclusionary development units are subject to and determined by UHAC and COAH rules or other rules determined appropriate by the court.~~
- D. Affordable homes shall be integrated within the market rate units and shall be situated on the tract in locations no less desirable than other dwelling units within the development and shall be at least equally accessible to common open space and community facilities.
- E. All costs associated with administration and affirmative marketing shall be borne by the developer, as set forth in the Borough's affordable housing regulations.

SECTION 5. Article XXI Affordable Housing of Chapter 207 Zoning is replaced in its entirety as follows:

§ 207-121 Affordable housing regulation and administration.

- A. Purpose, Applicability & Interpretation.
- (1) This section of the Code sets forth regulations regarding the creation, use, occupancy, administration and preservation of very low-, low- and moderate-income affordable housing units in Kinnelon Borough consistent with the Mount Laurel doctrine; the New Jersey Fair Housing Act, as amended by P.L. 2024, c.2, N.J.S.A. 52:27D-301 et seq., (hereinafter the "Act," "FHA" or "FHA-2"); the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C.

5:99 et seq., ("Affordable Housing Rules"), and the Housing and Mortgage Finance Agency's (HMFA) Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the ; and the municipality's Fourth Round Housing Element and Fair Share Plan ("HEFSP").

- (2) This Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units in accordance with applicable statutory and regulatory requirements. This provisions of this Code shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit-financed developments shall adhere to the provisions set forth below in item 5.c. below.
- (3) The Kinnelon Borough Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
- (4) This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of the Mt. Laurel doctrine, the FHA N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.

B. Applicability

- (1) Except where specifically exempted hereinafter, the provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
- (2) Except where specifically exempted hereinafter, this Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, as well as any unanticipated future development or redevelopment projects that will include, are proposed to provide or required by the municipality to provide very low-, low- and moderate-income housing units.
- (3) Projects receiving federal Low Income Housing Tax Credit financing shall be required to follow the UHAC unless exempt pursuant to N.J.A.C. 5:80-26.1, including but not limited to developments with anticipated funding from the Federal Low-Income Housing Tax Credit (LIHTC) pursuant to Section 42 of the Internal Revenue Code. Developers, landlords and program sponsors shall be required to comply with administration and affirmative marketing of the affordable units within such developments.
- (4) A waiver from any provision of this Code may be granted by the County-level Mount Laurel Judge, the Program or any trial court if it would advance the interests of low-and moderate-income households or if strict compliance would cause an unreasonable result.

C. Interpretation

- (1) In the event of any ambiguity, the provisions of this Code shall be interpreted and liberally construed in favor of the Municipality.
- (2) Any subject matter that is not otherwise addressed hereinafter, or is not otherwise covered by the Act, the Affordable Housing Rules or the UHAC, the Municipality may rely upon the provisions of COAH's prior round regulations at N.J.A.C. 5:93 and 5:97 that were deemed valid by binding Court precedent that are most favorable to the municipality.

D. Definitions

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

"Accessory apartments" means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping,

eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed preexisting primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as "accessory dwelling units".

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

"Adaptable" means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L. 1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Non-residential development" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Supportive housing household" means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least

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

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

"Supportive housing unit" means a restricted rental unit, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. Supportive housing units are also referred to as permanent supportive housing units.

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

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

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

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

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

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

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

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

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

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

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

E. Monitoring and Reporting Requirements

- (1) In accordance with the Act and N.J.A.C. 5:99 et seq., the Borough is required to annually provide updated affordable housing monitoring activity and affordable housing trust fund activity through the Department's Affordable Housing Monitoring Service on or before February 15 annually.
- (2) All developers, program sponsors and landlords of developments or projects containing affordable housing in the Borough shall be required to provide all necessary information related to the status of construction and occupancy of each affordable unit within the respective developer, program sponsor or landlord's development to the municipality's Municipal Housing Liaison by no later than January 2 annually for the previous year.

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

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

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

- (3) Design. The following design requirements apply to affordable housing developments, excluding prior round units.
 - (a) Design of 100 percent affordable developments:
 - (i) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - (ii) Each bedroom in each restricted unit must have at least one window.
 - (iii) Restricted units must include adequate air conditioning and heating.

- (b) Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
- (i) Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - (ii) Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
 - (iii) Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - (iv) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - (v) Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
 - (vi) Each bedroom in each restricted unit must have at least one window.
 - (vii) Restricted units must be of the same unit type as market-rate units within the same building.
 - (viii) Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- (c) Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
- (i) Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - (ii) Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - (iii) Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses shall be

exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.

- (iv) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- (v) Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
- (vi) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
- (vii) Each bedroom in each restricted unit must have at least one window; and
- (viii) Restricted units must include adequate air conditioning and heating.

(4) Utilities.

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

(5) Income split and bedroom distribution.

- (a) Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (b) In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units. The municipality has chosen to allow rounding.
- (c) Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
- (d) Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - (i) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - (ii) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - (iii) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total number of low- and moderate-income units. The number may be rounded up when the calculation results in a fraction of .5 or greater if the development includes a minimum of 1 two-bedroom

affordable unit and 1 three-bedroom affordable unit. The number of units may be rounded down when calculation results in a fraction of .4 or less.

- (iv) At least 30% of all low- and moderate-income units, shall be two-bedroom units. The number of units may be rounded up when the calculation results in a fraction of .5 or greater, or rounded down where the calculation results in a fraction of .4 or less.
 - (v) At least 20% of all low- and moderate-income units, shall be three-bedroom units.
 - (vi) The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - (e) Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
- (6) Accessibility requirements.
- (a) Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
 - (b) Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - (i) An adaptable toilet and bathing facility on the first floor;
 - (ii) An adaptable kitchen on the first floor;
 - (iii) An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
 - (iv) An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
 - (v) If not all of the foregoing requirements above can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
 - (vi) An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

- (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
- (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
 - (vii) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

G. Affordable Housing Programs

- (1) Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions."

H. Regional Income Limits.

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

I. Maximum Initial Rents And Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
- (2) The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
- (3) The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income.

The maximum rent may be increased to 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; however, 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 (rounded up) of the restricted units.

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

- (9) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
- (10) The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (11) At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

J. Affirmative Marketing.

- (1) The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
- (2) The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 and is required to be followed throughout the period of deed restriction.
- (3) The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - (a) Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - (b) There shall be a regional preference for all households that live and/or work in Housing Region 2 comprising Essex, Warren, Union and Morris Counties.

- (c) Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
- (d) With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
- (4) The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
- (5) The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
- (6) Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
- (7) In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
- (8) In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (9) The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- (10) The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

K. Selection of Occupants of Affordable Housing Units.

- (1) The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
- (2) A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

L. Occupancy Standards.

- (1) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - (b) Provide a bedroom for every two adult occupants;

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

M. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
- (2) Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
- (3) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.
- (4) If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
- (5) After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - (a) If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - (b) If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
- (6) Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
- (7) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (8) At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (9) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

N. Price Restrictions for Restricted Ownership Units and Resale Prices.

- (1) 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:
 - (a) The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.

- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C. 5:80-26.7.
 - (i) If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
 - (ii) If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
 - (c) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
 - (i) those that render the unit suitable for a larger household or the addition of a bathroom.
 - (ii) The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
 - (d) No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
- (2) Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

O. Buyer Income Eligibility.

- (1) Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.

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

P. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

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

Q. Control Periods for Restricted Rental Units.

- (1) Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432, and amended December 20, 2004, 36 N.J.R. 5713 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
- (2) Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
- (3) The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
- (4) Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
- (5) Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
- (6) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
- (7) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit;
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - (d) The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

R. Rent Restrictions for Rental Units; Leases and Fees.

- (1) The initial rent for a restricted rental unit shall be set by the Administrative Agent.
- (2) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.
- (3) 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.
 - (a) Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.

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

S. Tenant Income Eligibility.

- (1) Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - (a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (b) 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;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) 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.

- (3) The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

T. Municipal Housing Liaison.

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

U. Administrative Agent.

- (1) All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
- (2) The fees for administrative agents shall be paid as follows:
 - (a) Administrative agent fees related to rental units shall be paid by the developer/owner.
 - (b) Administrative agent fees related to initial sale of units shall be paid by the developer.
 - (c) Administrative agent fees related to resales shall be paid by the seller of the affordable home.

- (d) Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
- (3) An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
- (4) Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - (b) Affirmative marketing:
 - (i) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - (ii) Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
 - (c) Household certification.
 - (i) Soliciting, scheduling, conducting and following up on interviews with interested households.
 - (ii) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (iii) Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - (iv) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - (v) Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - (vi) Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
 - (d) Affordability controls.
 - (i) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - (ii) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - (iii) Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.

- (iv) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- (e) Records retention.
 - (i) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - (ii) Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- (f) Resales and re-rentals.
 - (i) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - (ii) Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- (g) Processing requests from unit owners.
 - (i) Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - (ii) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
 - (iii) Notifying the municipality of an owner's intent to sell a restricted unit.
 - (iv) Making determinations on requests by owners of restricted units for hardship waivers.
- (h) Enforcement.
 - (i) Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - (ii) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - (iii) Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - (iv) Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and

- (v) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- (i) The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

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

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

- (g) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
- (3) In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
 - (a) Proposed pricing for all units, including any purchaser options and add-on items.
 - (b) Condominium or homeowner association fees and any other applicable fees.
 - (c) Estimated real property taxes.
 - (d) Sewer, water, trash disposal, and any other utility assessments.
 - (e) Flood insurance requirement, if applicable.
 - (f) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

W. Enforcement of Affordable Housing Regulations

- (1) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (2) After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (a) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (i) A fine of not more than \$500 / day or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (ii) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (iii) In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- (3) The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.

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

- (f) The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
- (5) It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.
- (6) Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
- (7) The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
- (8) Appeals
 - (a) Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

Repealer

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

Severability

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

Effective Date

This ordinance shall take effect upon its passage and publication, as required by law.

February 19, 2026

There was no other desire to discuss this ordinance, and the Mayor asked the Borough Clerk to call the roll on the passage thereof, and the vote was as followed.

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirdo, Yes; Councilman R. Reckler, Yes;
Councilman E. Harriz, Yes; Councilman R. Lewis, Yes.

WHEREAS, the above ordinance was introduced at this meeting held on February 19, 2026, and read by title, and passed on first reading:

NOW, THEREFORE, BE IT RESOLVED, that at the regular meeting to be held on March 12, 2026, at 7:00 pm, prevailing time, at the Kinnelon Municipal Building, this Council further consider for second reading and final passage the said ordinance.

BE IT FURTHER RESOLVED that the Borough Clerk of this Borough be and she is hereby directed to publish the proper notice thereof.

Councilman S. Mabey offered a motion to publish the foregoing resolution. This was second by Councilman E. Harriz.

Roll Call: Councilman S. Mabey, Yes; Councilwomen C. Frank, Yes;
Councilman Chirido, Yes; Councilman R. Reckler, Yes;
Councilman E. Harriz, Yes; Councilman R. Lewis, Yes.

APPOINTMENTS: Thomas Kline – SOSAC Alt1
Dr. Theodore Falk – Board of Health
Alberto Rodrigues – Board of Adjustment

RESOLUTION TO GO INTO CLOSED SESSION:

Motion: Councilman Chirido
Second: Councilman Mabey

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975-N.J.S.A.10:4-12-permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, this Governing Body of the Borough of Kinnelon is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Kinnelon, County of Morris, State of New Jersey shall now go into closed session for the following reason:

Contracts

Disclosure of said matter will be revealed upon settlement. This meeting went into closed session at 7:50 p.m.

[illegible]

February 19, 2026

(OPEN MEETING FROM CLOSE MEETING)

Motion to go into Open Session Councilman Harriz at 10:00 pm:
Second Motion: Councilman Chirido

Councilman	Aye	Nay	Abstain	Absent	Councilman	Aye	Nay	Abstain	Absent
Mabey	x				Frank	x			
Chirido	x				Reckler	x			
Harriz	x				Lewis	x			

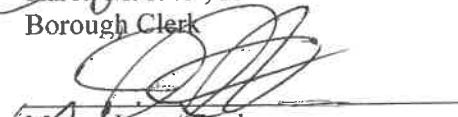
No action was taken in the closed session.

ADJOURNMENT:

This meeting adjourned at approximately 8:45p.m. on motion by Councilman S. Mabey with the unanimous affirmative voice vote of all present.

Respectfully submitted,


Karen M. Luele, RMC
Borough Clerk


Mayor James Freda