

The Meeting of the City Council of the City of Hackensack was held at City Hall, 65 Central Avenue, Hackensack, New Jersey, on Tuesday, February 17, 2026 at 5:30 P.M.

I. CALL TO ORDER AND ORDER OF BUSINESS:

Mayor Gaines called the meeting to order and the Deputy City Clerk Allison Saabye announced, “This meeting is being held in accordance with the “Open Public Meeting Act,” N.J.S.A. 10:4-6 et seq., notice having been published according to law, with a copy on file in the City Clerk’s Office, and a copy posted on the Bulletin Board in City Hall.”

Ms. Saabye called the roll: Mayor Gaines, Deputy Mayor Toomey, Councilwoman Clark-Collins, Councilman Carroll, and Councilman Diaz were present. City Manager Thomas Freeman was absent. City Attorney Richard Malagiere was present. Acting Clerk Timothy Hoffman was absent. Deputy City Clerk Allison Saabye was present.

FLAG SALUTE

APPROVAL OF MINUTES: A motion to approve the Meeting Minutes from January 28, 2026 Special Meeting and February 3, 2026 Regular Meeting was offered by Councilman Carroll, seconded by Councilwoman Clark Collins and approved by Mayor Gaines, Deputy Mayor Toomey, Councilman Carroll, Councilman Diaz and Councilwoman Clark-Collins.

II. RESOLUTION FOR EXECUTIVE SESSION:

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey	X		X				
Clark-Collins		X	X				
Carroll			X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

A RESOLUTION CALLING FOR AN EXECUTIVE MEETING OF THE CITY COUNCIL FOR THE FOLLOWING PURPOSES:

WHEREAS, the Mayor and Council of the City of Hackensack deem it necessary to discuss certain actions under Section 7b7 & 7b8 of the Open Public Meetings Act which pertains to matters falling within attorney-client privilege, on-going litigation and personnel matters concerning the employment of a current or prospective public employee(s).

WHEREAS, the Mayor and Council of the City of Hackensack is of the opinion that such circumstances may presently exist; and

WHEREAS, the City Council wishes to discuss the following issues:

- 1. On-going Litigation
- 2. Matters involving attorney/client privilege
- 3. Matters involving the purchase, lease or acquisition of real property
- 4. Any pending or anticipated litigation or contract negotiations

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the City of Hackensack deem it necessary to exclude the public from this discussion. The outcome of the discussion will be disclosed within 90 days or at such time as the interests of the City do not require confidentiality.

III. PROCLAMATIONS & PRESENTATION:

- a. Proclamations
 - i. Grammy Award Winner Matthew Whitaker
 - ii. Black History Month
 - iii. 182nd Anniversary of the Dominican Republic's Independence
- b. Presentations by Groups - None

IV. REPORTS AND PRESENTATIONS FROM PROFESSIONALS AND DEPARTMENT HEADS:

Affordable Housing Update – Wendy Quiroga, Esq: On your agenda tonight for introduction is an ordinance that would regulate the affordable housing units and affirmative marketing for the City of Hackensack. The reason it is on as a repeal and replace is because as part of all the legislative updates that have been happening over the last year or two, one of them happens to be a whole new update to what is called the Uniform Housing Affordability Control Act which is UHAC. Since UHAC has been overhauled, a lot of the citations would have changed. Rather than doing a surgical approach and changing all the citations, we have taken the State model, myself together with your affordable housing planner, Mike Mistretta, and are recommending a full repeal and replace to make sure that all of the statutory requirements and citations have been updated appropriately.

V. PUBLIC COMMENT (ON AGENDA ITEMS):

A motion to open the meeting to the public was offered by Councilman Carroll and seconded by Councilman Diaz.

Frances Bruce – I am speaking on behalf of Matthew Whitaker. There is an addendum that should be made. Matthew was the youngest musician at age 14 for the Yamaha artist.

Police Chief Antista – On behalf of the PD, I just want to thank you all for your consideration on advancing our table of organization. This is an important step for the progress of our Police Department. As Chief of Police, my focus is simple, building a department that is proactive, accountable, and deeply connected to the community that we serve. We are not just responding to calls, we are strengthening relationships, modernizing our technology, and developing leaders at every level of the organization. Policing today requires adaptability, investing in training, expanding community engagement, ensuring that our command structure supports growth and innovation. I am positioning the department to meet current challenges while preparing for what is ahead. At the end of the day, our mission at the PD is simple, every decision we make is grounded in protecting our community, supporting our officers, and building trust that last beyond any single initiative or interaction with officers of the Hackensack Police Department.

No one else wished to speak.

A motion to close the meeting to the public was offered by Deputy Mayor Toomey and seconded by Councilwoman Clark Collins.

VI. NEW BUSINESS (ORDINANCES AND RESOLUTIONS):

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey	X		X				
Clark-Collins			X				
Carroll		X	X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 57-26**

**FINAL ADOPTION OF ORDINANCE 03-2026, AN
ORDINANCE TO AMEND CHAPTER 32 OF THE CODE OF
THE CITY OF HACKENSACK, “POLICE DEPARTMENT,”
TO ABOLISH THE POSITION OF POLICE DIRECTOR AND
RESTORE THE POWERS TO THE CHIEF OF POLICE**

This Ordinance has been published according to law and now calls for a Public Hearing.

A motion to open to the public was offered by Councilman Carroll and seconded by Councilwoman Clark Collins.

PUBLIC HEARING: No one wished to speak.

A motion to close to the public was offered by Deputy Mayor Toomey and seconded by Councilwoman Clark Collins.

Councilwoman Clark Collins: First, I would like to say to the Chief Antista and entire Hackensack Police, thank you for your service. I just have a question on the captain that you want to add. Currently you have 4 captains and want to add a fifth. You submitted a table of organization, I want to know where exactly would that new captain go?

Chief Antista responded: Let’s start off with we are the largest PD in the county, most officers, biggest population, the most diverse area, our calls for service are up almost 20 percent since 2019. Even with that, our command structure was lowered in that time frame. At one point, we had two deputy chiefs and up to nine captains. While there is no need for nine captains, what I am looking for is accountability and proper span of control. Right now I have 4 captains that oversee numerous divisions, units, and offices within the police department. My goal is to realign those divisions to have a better span of control. We have issues such as dealing with our evidence, increased attention to OPRA and body worn cameras. All those focus points need for accountability better span of control, oversight and accountability. My goal is to take my four captains and realign all our offices and units, so they are aligned more properly to have better executive leadership and oversight over those positions. This is a growing police department. This is a police department that is progressing with the future of policing and having this command staff in place will prepare us for what is going on in the current and future department.

Councilwoman Clark Collins: Basically, I see that some of these captains have three divisions or departments and some have four, so you would just take

that captain and maybe take one or two departments for that person so they are not overwhelmed.

Chief Antista: Yes, proper span so they are not overwhelmed, there is more accountability and oversight that we are doing the right thing. It is all part of the progression and having better executive leadership.

Councilwoman Clark Collins: And all these positions you promote within?

Chief Antista: Yes.

Councilman Diaz: I have a question. First and foremost, we continue the main priority to be safety for the City, so we are happy you were able to present the restructuring. My question is did you have the opportunity to establish a benchmark compared to other municipalities in our county and other counties around the state to see other ones the same size if they have the similar structure to what you plan on implementing?

Chief Antista: Yes, I proposed that late last year to the City Manager's office. An example, a town like Fort Lee has 99 officers and they have 3 deputy chiefs and multiple captains so we are in line or even a little lower than what other police departments have in the county. My goal is to create a benchmark and bring us in line with the number of officers that we have, with the city that we police and make sure we provide the best service possible for our community.

Councilwoman Clark Collins: With the table of organization we received, I asked for the description on each and you provided that, would you be able to put it all together and revise the table and give us another copy?

BE IT RESOLVED by the City Council of the City of Hackensack, County of Bergen and State of New Jersey, that Ordinance No. 03-2026 has passed its second and final reading and is hereby adopted.

**CITY OF HACKENSACK
ORDINANCE NO. 03-2026**

**AN ORDINANCE TO AMEND CHAPTER 32 OF THE CODE OF THE CITY OF
HACKENSACK, "POLICE DEPARTMENT," TO ABOLISH THE POSITION OF POLICE
DIRECTOR AND RESTORE THE POWERS OF THE CHIEF OF POLICE**

WHEREAS, the Mayor and Council of the City of Hackensack ("City") have established a Police Department as provided for by N.J.S.A. 40A:14-118 and other related provisions of New Jersey law; and,

WHEREAS, Chapter 32 of the Code of the City of Hackensack ("City Code") sets forth the Police Department's Organization, Duties and Regulations; and

WHEREAS, the City of Hackensack Police Department is the largest police force in Bergen County; and

WHEREAS, The City of Hackensack Police Department was a diverse and professional police force hailed as a leader in the areas of investigation, community policing, dispatching, organized under one Chief of Police; and

WHEREAS, the Hackensack Police Department underwent a series of significant and sometimes quizzical changes to its leadership structure over a 12-year period from 2012 to 2024; and,

WHEREAS, one example of the curious nature of some of the changes is evidenced by the position of Chief of Police (“Chief”) being abolished in 2016 only to be restored in 2024; and,

WHEREAS, the position of Director of Police was created in 2012 as a civilian-held position to perform the duties of Chief in the event of vacancy;

WHEREAS, in 2015 the Director of Police was assigned all of the Chief’s powers and the position of Chief of Police was abolished; and

WHEREAS, the position of Deputy Chief was abolished in 2016; and

WHEREAS, in 2024 the Chief of Police office was restored; and

WHEREAS, the Mayor and Council find it necessary and proper to restore proper structure to the Hackensack Police Department for the most efficient discharge of the City’s police function and to amend and update the Hackensack Police Department Table of Organization to reflect the current needs for appropriate supervision of the Department; and,

WHEREAS, the changes hereby made are tantamount to a final undoing of the ill-advised and *ad hoc* changes made by prior administrations over the last 10-15 years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HACKENSACK, as follows:

Section 1:

The Code of the City of Hackensack (“City Code”), Chapter 32, “Police Department,” Article I, “Department Organization, Duties, and Regulations” is hereby replaced with the following:

§32-1 Establishment of Police Department.

- A. There is hereby created, in and for the City of Hackensack, a Police Department, which shall consist with no more than a Chief of Police, and up to one (1) Deputy Chief, up to five (5) Captains, up to twelve (12) Lieutenants, up to eighteen (18) Sergeants, and a maximum of 85 police officers, to be appointed to these positions by the City Manager with the budgetary approval of the City Council, as public need may require
- B. Civilian. Communication operators, mechanics, parking meter repairers, parking meter collectors and repairers, school traffic guards, office-clerical personnel and such other titles as may be established.
- C. Special law enforcement officers. The City of Hackensack hereby establishes special law enforcement officers pursuant to and in compliance with the Special Law Enforcement Officers Act (N.J.S.A. 40A:14-146.8 et seq.)
 - 1. Special law enforcement officers are subject to the personnel policies of the City of Hackensack.
 - 2. Special law enforcement officers are subject to the City of Hackensack Police Department's Rules and Regulations, and Written Directive System, where applicable.

§32.2 Purpose of the Police Department

The Police Department shall:

- A. Preserve the public peace;
- B. Protect life and property;
- C. Detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the City of Hackensack;
- D. Direct and control traffic;
- E. Provide attendance and protection during emergencies;
- F. Make appearances in court;

- G. Cooperate with all other law enforcement agencies; and
- H. Provide training for the efficiency of its members and officers.

§ 32-3. Chief of Police; powers and duties.

Pursuant to N.J.S.A. 40A:14-118, and to the fullest extent permissibly delegable to him under said statute, the Chief of Police shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operations of the Police Department. The Chief of Police shall, consistent with City ordinances:

- A. Administer and enforce the rules and regulations of the Police Department and any special emergency directives for the disposition and discipline of the Department and its officers and personnel.
- B. Have, exercise, and discharge the functions, powers and duties of the Police Department.
- C. Prescribe the duties and assignments of all subordinates and other personnel.
- D. Delegate such of his or her authority as he or she may deem necessary for the efficient operation of the Police Department to be exercised under his or her direction and supervision.
- E. Report at least monthly to the appropriate authority in such form as shall be prescribed by the appropriate authority on the operation of the force during the preceding month and make such other reports as may be requested by the appropriate authority.

§ 32-4. Appropriate authority designated.

In accordance with N.J.S.A. 40A:14-118, the City Manager is hereby designated as the appropriate authority and is hereby vested with the powers and duties of an appropriate authority as delegated by law.

§32-5. Appointment of officers and personnel.

No person shall be appointed to the Police Department who is not qualified as provided by New Jersey law. The selection criteria for a police officer shall be in accordance with Department policy and ordinances and New Jersey Law including but not limited to the rules and regulations of the New Jersey Civil Service Commission.

§32-6 Disciplinary action.

Discipline of police officers will be imposed consistent with New Jersey State statutes, New Jersey Administrative Code, the rules and regulations of the Hackensack Police Department, and the rules and regulations of the New Jersey Civil Service Commission. The written charges will be signed by the Chief of Police, or his/her designee, as provided in New Jersey law and the Police Department's rules and regulations. Police officers may also be subject to discipline for violating other statutes, ordinances, and policies

§ 32-7. Rules and regulations.

The appropriate authority shall, from time to time as may be necessary, adopt and amend the rules and regulations for the government and discipline of the Police Department and employees thereof. Said rules and regulations may fix and provide for the enforcement of such rules and regulations and the enforcement of penalties for the violation of such rules and regulations, and all employees of the Police Department shall be subject to such rules and regulations and penalties.

§ 32-8. Police officer extra-duty employment policy.

- A. Purpose. For the convenience of those persons and entities utilizing the services of Hackensack Police Department officers to perform extra-duty details and to authorize Hackensack police officers to perform voluntary extra-duty details within the City of Hackensack or within other local municipalities that extend beyond their regular assigned duties and responsibilities, the City hereby establishes a policy regarding the use of said officers.
 - (1) Hackensack police officers shall be permitted to accept police-related employment for private employers or school districts only during off-duty hours and at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty for the City. Any such extra-duty employment shall be voluntary, and may be accepted

or declined solely at the option of the officer (provided the extra-duty employment is approved in accordance with the Hackensack City Code and any applicable rules, regulations, policies or procedures of the Hackensack Police Department). Accordingly, the performance of such extra-duty work for a separate and independent employer shall be excluded by the City in the calculation of the hours for which the officer is entitled to overtime.

- (2) Any person or entity wishing to employ a Hackensack police officer or officers for an extra-duty detail shall first obtain the approval of the Chief of Police or his/her designee, who shall grant such approval if in his or her judgment such employment would not be inconsistent with the efficient functioning and good reputation of the Police Department and would not unreasonably endanger or threaten the safety of the officer or officers who are to perform the work.
- (3) To the fullest extent permissible by law, the person or entity requesting the services of Hackensack police officer(s) for an extra-duty detail shall execute an appropriate hold harmless and indemnity agreement as approved by the City Attorney, which shall provide that such person or entity shall indemnify, defend, and hold harmless the City of Hackensack, along with its elected and appointed officers, employees, agents, servants and administrators, from and against any and all claims, or actions at law, whether for personal injury, property damage or liability, including any cost of defense incurred by the City, which arises from any acts or omissions of the insured, its agents, or employees arising out of or related to his, her or its use of Hackensack police officers to perform extra duty. This indemnification and hold harmless agreement and the duty to defend shall apply in all instances, whether the City is a defendant or is made a direct party to the initial action or claim, or is subsequently made a party to the action by third-party pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues from the original cause of action or claim.
- (4) No person or entity shall employ a Hackensack police officer for extra duty without having first filed with the Police Department a certificate of insurance naming the City, its agents, servants and administrators as additional insureds, and evidencing that general liability coverage of not less than \$1,000,000 per occurrence is in effect with respect to the extra-duty services to be provided. All such certificates of insurance are subject to approval by the City's risk manager or other insurance professional and the City Attorney. All policies of insurance evidenced by any certificate filed hereunder shall be maintained in full force and effect at all times while any police officer is performing extra duty. Upon the change or renewal of any such policy of insurance, the person or entity utilizing the services of a Hackensack police officer for extra duty shall file with the Police Department a new and current certificate of insurance in compliance with the foregoing provisions within one business day. The City Manager may waive some or all of the foregoing requirements if in his or her determination it is in the best interest of the City and the City will still remain adequately protected in the absence of same.
- (5) The Chief of Police, or his/her designee, with the approval of the City Manager, may promulgate appropriate additional administrative regulations and requirements for the use of Hackensack police officers for extra-duty details, provided they are not inconsistent with any provision within the Code of the City of Hackensack. The Chief of Police, or in the absence of the Chief, the City's highest ranking law enforcement executive, shall monitor all extra-duty employment to ensure that the City's interests are protected.

B. Escrow accounts.

- (1) Any person or entity requesting the services of a Hackensack police officer to perform extra duty shall estimate the number of hours such law enforcement services are required, which estimate shall be approved, in writing, by the Chief of Police or his/her designee shall establish an escrow account with the City Treasurer by depositing an amount sufficient to cover the rates of compensation and administrative fees for the total estimated hours of service. This may be waived for nonprofit organizations, public

- utilities, or for companies that have a working relationship with the City.
- (2) Prior to posting any request for the services of a Hackensack police officer to perform extra duty, the Chief of Police or, in the absence of the Chief or his/her designee shall verify that the balance in the escrow account of the person or entity requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police or his/her designee shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the City Treasurer. No officer shall provide any such services for more hours than are specified in the request for services.
 - (3) In the event the funds in such an escrow account should become depleted, services of law enforcement officers performing extra duty shall cease and requests for further services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.
 - (4) The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.
- C. Requests for services.
- (1) Any law enforcement officers, when so employed by the City, shall be treated as employees of the City; provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of law enforcement officers so employed.
- D. Rate of compensation.
- (1) The rate of compensation for a Hackensack police officer engaging in extra-duty employment shall be \$100.00 per hour, regardless of rank. Recognized public and not-for-profit educational and religious institutions shall receive a \$20 per hour reduction on the foregoing extra-duty employment rate of compensation.
 - (2) There is no minimum period for a Hackensack police officer to be engaged in extra-duty employment, however, any such officer engaged for a period of less than four hours shall be compensated as if he or she actually worked four hours. In the event of a cancellation received two or less hours prior to the scheduled starting time of the extra-duty assignment, there shall be a cancellation charge of four hours per officer. Cancellations received more than two hours prior to the scheduled starting time of the extra-duty assignment shall be at no charge.
 - (3) In addition to the compensation to be paid for the services of each Hackensack police officer, there shall be a \$25 per hour administrative/vehicle use fee, which is per officer engaged in extra-duty employment. The administrative/vehicle use fee is also subject to a four-hour minimum charge as set forth in Subsection D(2), above. Additionally, the City may pass along to the person or entity requesting such services any fees charged by an outside vendor contracted by the City to administer scheduling and/or notification services with respect to any extra-duty employment requested pursuant to this section. Recognized public and not-for-profit educational and religious institutions shall have this administrative fee waived by the City.

Section 2:

Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 3:

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4:

Codification. This Ordinance shall be a part of the Code of the City of Hackensack as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The City Clerk and the City Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hackensack in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 5:

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey		X	X				
Clark-Collins			X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 58-26

INTRODUCTION OF ORDINANCE 04-2026, AN
ORDINANCE AMENDING CHAPTER 45A “AFFORDABLE
HOUSING” PART II “GENERAL LEGISLATION” OF THE
CODE OF THE CITY OF HACKENSACK TO ADDRESS THE
REQUIREMENTS OF THE FAIR SHARE HOUSING ACT AS
AMENDED AND THE UNIFORM HOUSING
AFFORDABILITY CONTROLS AS AMENDED, REGARDING
COMPLIANCE WITH THE CITY’S AFFORDABLE HOUSING
OBLIGATIONS

BE IT RESOLVED that the above ordinance, being Ordinance 04-2026 as introduced, does now pass on first reading and that said Ordinance shall be considered for final passage at a meeting to be held on March 3, 2026 at 5:30 p.m. or as soon thereafter as the matter can be reached at the regular meeting place of the City Council and at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance and that the Clerk be and he is hereby authorized and directed to publish said ordinance according to law with a notice of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

CITY OF HACKENSACK
ORDINANCE 04-2026

AN ORDINANCE AMENDING CHAPTER 45A, “AFFORDABLE HOUSING” IN PART II
“GENERAL LEGISLATION” OF THE CODE OF THE CITY OF HACKENSACK TO
ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT (FHA) AS AMENDED,
AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), AS AMENDED,
REGARDING COMPLIANCE WITH THE CITY’S AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the City of Hackensack filed a resolution of participation in the Affordable Housing
Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to

N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”), entitled “In the Matter of the Application of the City of Hackensack,” Docket No. BER-L-724-25 on January 29, 2025; and

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

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, the City of Hackensack Planning Board has adopted a Housing Element and Fair Share Plan on June 11, 2025 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Housing Element and Fair Share Plan have been endorsed by the City Council by Resolution Number 312-25 on June 24, 2025; and

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

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Hackensack as follows:

SECTION 1. Chapter 45A “Affordable Housing” of the Code of the City of Hackensack is hereby repealed and replaced as follows:

CHAPTER 45A AFFORDABLE HOUSING

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the City of Hackensack consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
2. To the extent applicable and not inconsistent with the FHA or binding court decisions, this Ordinance is intended to ensure that very-low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very-low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100 percent affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to affirmative marketing and random selection procedures set forth in UHAC.
3. The Planning Board of the City of Hackensack has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very-low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
 - a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that are proposed to be created pursuant to the municipality’s most recently adopted HEFSP.

- b. This Ordinance shall apply to all developments that contain very-low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very-low-, low- and moderate-income housing units.
- c. Low-Income Housing Tax Credit (“LIHTC”) Units. To the extent any affordable units in the HEFSP are financed under the Federal Low-Income Housing Tax Credit program (26 U.S.C. § 42), the affordability controls for such LIHTC units shall be governed by applicable federal law, the regulatory and recorded restrictions required by the New Jersey Housing and Mortgage Finance Agency and/or other allocating agency, and the project’s recorded affordability documents. Except as expressly required by law, UHAC shall not apply to LIHTC units; provided, however, that newly constructed LIHTC units that receive credit pursuant to the FHA shall be affirmatively marketed in accordance with N.J.A.C. 5:80-26.16. In a mixed-income development containing both LIHTC units and non-LIHTC restricted units, the non-LIHTC restricted units shall comply with this Ordinance and UHAC, as applicable.

6. To the extent this Ordinance does not expressly address a matter relating to the administration, affordability controls, affirmative marketing, income eligibility, pricing/rent setting, sales and rental procedures, or enforcement of affordable units, and except where inconsistent with applicable law, the Municipality’s court-approved compliance mechanism, or the recorded affordability controls applicable to a specific development (including LIHTC regulatory agreements), the provisions of UHAC, as amended and supplemented, shall govern and are hereby incorporated by reference.

B. 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 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" or "NJ 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 NJ AHTF.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Treasurer” means the Treasurer of the State of New Jersey.

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

“UHORP” means the Agency’s Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

“Very-low-income unit” means a restricted unit that is affordable to a very-low-income household. Very-low-income units are a subset of low-income units.

“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.

C. Monitoring and Reporting Requirements

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:
 - a. The municipality shall provide electronic monitoring data with the Department pursuant to P.L. 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department’s website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
 - b. On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.
 - c. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

D. 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.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
2. Hackensack is a Qualified Urban Aid Municipality and therefore is exempt from a responsibility for any fair share prospective need obligation for the Fourth Round.
3. Inclusionary zoning and new construction programs shall be implemented in accordance with the City’s adopted Fourth Round Housing Element and Fair Share Plan, as amended, and subject to the terms of any future Order from the Court.
4. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation). The City will continue its participation in the Bergen County Home Improvement Program to satisfy its present need (rehabilitation) obligation.
 - a. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
 - b. Both ownership and rental units shall be eligible for rehabilitation funds.
 - c. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control

period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.

- d. The municipality shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
- e. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
- f. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
 - i. If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
 - ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant’s current rent or the maximum rent permitted under UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.

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

- 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 may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - 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.AC 5:80-26.13(e).
5. Low/moderate 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 percent 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 percent, 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 percent, rounded down, of the total number of low- and moderate-income units. The municipality has chosen to allow rounding.
 - iv. At least 30 percent of all low- and moderate-income units, rounded up shall be two-bedroom units. The municipality has chosen to allow rounding.
 - v. At least 20 percent of all low- and moderate-income units, rounded up shall be three-bedroom units. The municipality has chosen to allow rounding.
 - 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 five percent 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 in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
 - vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10 percent 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 municipal Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent 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 municipal 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.
7. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
 - a. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units.
 - b. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
 - c. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.

- d. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
 - e. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - f. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
8. Market to Affordable program (per N.J.A.C. 5:97-6.9).
- a. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
 - b. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - c. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - d. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
 - e. The units shall comply with UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
 - f. Affordability average (N.J.A.C. 5:80-26.4); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
9. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
- a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100 percent affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.

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

- a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
- b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
- c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
- d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
- e. Low- and moderate-income residents cannot be charged any upfront fees.
- f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
- g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.

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

- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - iii. Occupancy shall not be restricted to youth under 18 years of age.
 - iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - v. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan, if applicable, approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.
 - vii. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.

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

- (a) An Affirmative Marketing Plan in accordance with I.1 below; and
- (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.

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

F. 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.

G. 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 percent 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. Very low-income units, if required, should be distributed between each bedroom count as proportionally as possible to the total number of restricted units within each bedroom count, and shall be part of the low-income requirement.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70 percent of median income, and each affordable housing development must achieve an affordability average that does not exceed 55 percent 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.
 11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following a minimum 90-day notice provided to the occupant household, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3 and published by the Agency. This rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

H. 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, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5-1 et seq., and age-restricted units as permitted pursuant to 42 U.S.C. §§ 3601 et seq.), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50, 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 1 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 1 comprising Bergen, Hudson, Passaic, and Sussex 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 should 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 HUD-certified housing counselors or otherwise experienced entities approved by the Division providing counseling services 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 and may begin before construction commences. For owner-occupied units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.
10. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of owner-occupied units, in which case, applications must be accepted for no less than 30 days.
11. 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.
- I. 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.

J. 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.

K. 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.

L. 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.

M. 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 percent 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 percent of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80 percent 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 percent (40 percent 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 percent (40 percent 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

N. 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 percent 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).

O. 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 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 percent 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.

P. 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 five percent 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.

Q. 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 percent 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 percent 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 percent 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 percent (40 percent 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 percent (40 percent 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 percent (40 percent 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.

R. 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 R.3.h above has been duly recorded.
 - j. Listing on the municipal website contact information for the MHL and Administrative Agents.

S. 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 five (5) business 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.

T. 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 the items in T.1 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 the items in T.1 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. Realistic 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.

U. 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 \$500.00 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - 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 municipal 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.

V. Development Fees.

1. Purpose

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

2. Basic Requirements

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

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5 percent of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0 percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5 percent of the equalized assessed value on the first two units; and the specified higher percentage of 6 percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.
- v. . (Reserved).

4. Non-Residential Development Fees

a. Imposition of fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5 percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5 percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5 percent shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the

equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

- b. Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5 percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

5. Collection Procedures

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

the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

6. Appeal of development fees

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

7. Municipal Affordable Housing Trust Fund

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

- vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- e. All interest accrued in the municipal affordable housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
 - b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
 - c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low-income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - d. No more than 20 percent of all municipal affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.
9. Monitoring
- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing

units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

- a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- b. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

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

SECTION 2. Repealer

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

SECTION 3. 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.

SECTION 4. Effective Date

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

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 59-26

RESOLUTION AUTHORIZING PAYMENT OF BILLS

BE IT RESOLVED by the City Council of the City of Hackensack that the bills in the following accounts be and are hereby ordered paid:

Current Fund	\$	857,817.71
Grants		73,708.40
Payroll		4,171,614.28
Public Parking System		64,362.30
Capital		992,835.28
Escrow		8,711.00
Trust Account		485,172.99
Total Expenditures		<u>6,654,221.96</u>
Interfunds/Transfers		<u>\$8,396,315.29</u>

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 60-26

RESOLUTION AUTHORIZING TAX REFUNDS

BE IT RESOLVED, by the City Council of the City of Hackensack that the proper officers be and are hereby authorized to make the following refunds for the reasons stated:

<u>AMOUNT</u>	<u>BLOCK</u>	<u>LOT</u>	<u>NAME</u>	<u>YEAR</u>	<u>REASON</u> <u>PROP LOC</u>
\$17,386.36	90	42.02	Wolf Vespasiano LLC Attorney Trust Account And S & K Holdings LLC 331 Main St Chatham, NJ 07928	2025	State Board Judgment 205 So Newman St
\$8,523.18	511	2	Lasser Hochman LLC Trust Account 75 Eisenhower Parkway Suite 120 Roseland, NJ 07068	2024	State Board Judgment 111 Hackensack Ave
\$8,949.90	511	2	Lasser Hochman LLC Trust Account 75 Eisenhower Parkway Suite 120 Roseland, NJ 07068	2025	State Board Judgment 111 Hackensack Ave
\$2,825.06	238	8 C011C	Corelogic Refunds Dept For Lopez, Rene 3001 Hackberry Road Irving, TX 75063	2025	Duplicate Payment 160 Overlook Ave

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 61-26

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A STATE OF NEW JERSEY SFY 2026 SAFE AND SECURE COMMUNITIES GRANT

WHEREAS, the City of Hackensack has been awarded a grant in the amount of \$45,150.00 through the State Fiscal Year 2026 Safe and Secure Communities Grant Program, administered by the New Jersey Department of Law and Public Safety, Office of the Attorney General; and

WHEREAS, said grant award has been assigned Sub-Award Number 26-0223 by the New Jersey Department of Law and Public Safety; and

WHEREAS, the period of performance for said grant award shall commence on March 2, 2026 and conclude on March 1, 2027; and

WHEREAS, the grant award will be supported by a local match consisting of fringe benefit costs provided by the City of Hackensack, resulting in an approximate total project cost of \$508,103; and

WHEREAS, the grant funds will be used to partially offset existing, ongoing personnel and fringe benefit costs associated with public safety operations that are already budgeted and incurred by the City of Hackensack, thereby supporting the continued provision of essential police services without the creation of new positions; and

WHEREAS, the use of funds is consistent with the purposes described in the approved grant application and the objectives of the Safe and Secure Communities Grant Program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, State of New Jersey, that:

1. The City of Hackensack is hereby authorized to accept the SFY 2026 Safe and Secure Communities Grant in the amount of \$45,150.00, together with the required local match, for the purposes set forth in the grant application.
2. The Mayor of the City of Hackensack and the Chief of Police are hereby authorized to execute any and all agreements and documents necessary to effectuate the acceptance and implementation of this grant award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 62-26

RESOLUTION AUTHORIZING SUBMISSION OF A GRANT PROPOSAL TO THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS FY26 LOCAL RECREATION IMPROVEMENT GRANT PROGRAM FOR BALDWIN PARK

WHEREAS, the Mayor and Council of the City of Hackensack desire to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$100,000 through the FY26 Local Recreation Improvement Grant Program to support the Baldwin Park Playground Improvements project, which will provide for the purchase and installation of new playground equipment at Baldwin Park; and

THEREFORE, BE IT RESOLVED,

1. That the Mayor and Council of the City of Hackensack 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 the City of Hackensack and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED, that Caseen Gaines, Mayor, and Timothy J. Hoffman, Acting City Clerk, are authorized to sign the grant application, and that they or their successors in said titles are authorized to execute the grant agreement and any other documents necessary in connection therewith.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 63-26**

**RESOLUTION AWARDING CONTRACT TO BOSWELL ENGINEERING
FOR LSRP ENGINEERING SERVICES –
FIRE HEADQUARTERS REMEDIATION PROJECT**

WHEREAS, the City of Hackensack has undertaken a project to remediate a decades-old condition that has existed in the Fire Headquarters located at 205 State St., and requires the services of a Licensed Site Remediation Professional (LSRP) to perform the engineering services required for the bid preparation and construction management phase of said project; and

WHEREAS, the City solicited Requests for Proposals regarding the engineering design services required for said project; and

WHEREAS, it was determined that the proposal received from Boswell Engineering is the most advantageous to the City based on cost, expertise, and prior experience with the City.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. Boswell Engineering of 330 Phillips Ave., South Hackensack, NJ 07606 is hereby awarded a contract in an amount not to exceed \$230,000 for the LSRP engineering services related to the Fire HQ Remediation Project, in accordance with the proposal attached thereof.
2. A Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there is a sufficient appropriation to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.
3. The budget account to be charged is \$107,000 to C-04-21-041-000-100 & \$123,000 to C-04-25-021-000-400.
4. The Mayor and City Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 64-26**

**RESOLUTION AWARDING CONTRACT TO BOSWELL ENGINEERING
FOR GREEN STREET COMBINED SEWER OVERFLOW (CSO)
PUMP STATION SURVEY & ANALYSIS**

WHEREAS, the City of Hackensack plans to construct a new stormwater pump station in the Green Street area as part of the effort to alleviate flooding and reduce Combined Sewer Overflow (CSO) events, with funding available through the FEMA Hazard Mitigation Grant Program; and

WHEREAS, said pump station requires engineering services to perform a topographic survey and hydraulic analysis on the drainage area as part of the grant application process for said project; and

WHEREAS, the City solicited Requests for Proposals regarding the engineering design services required for said project; and

WHEREAS, it was determined that the proposal received from Boswell Engineering is the most advantageous to the City based on cost, expertise, and prior experience with the CSO system in the City.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. Boswell Engineering of 330 Phillips Ave., South Hackensack, NJ 07606 is hereby awarded a contract in an amount not to exceed \$103,100 for the engineering services related to the Green St. CSO Pump Station Review, in accordance with the proposal attached thereof.
2. A Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there is a sufficient appropriation to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.
3. The budget account to be charged is C-04-23-024-000-100.
4. The Mayor and City Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 65-26**

**RESOLUTION AWARDING CONTRACT TO BOSWELL ENGINEERING
FOR LSRP ENGINEERING SERVICES –
RCA TESTING – JOHNSON PARK**

WHEREAS, as part of the Johnson Park sports facility project, there was a quantity of recycled concrete aggregate (RCA) imported to the site which now needs to be sampled and tested by a Licensed Site Remediation Professional (LSRP); and

WHEREAS, the City solicited Requests for Proposals regarding the engineering design services required for said project; and

WHEREAS, it was determined that the proposal received from Boswell Engineering is the most advantageous to the City based on cost, expertise, and prior experience with the City.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. Boswell Engineering of 330 Phillips Ave., South Hackensack, NJ 07606 is hereby awarded a contract in an amount not to exceed \$46,359 for the LSRP engineering services related to the Johnson Park RCA Testing Project, in accordance with the proposal attached thereof.
2. A Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there is a sufficient appropriation to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.
3. The budget account to be charged is \$42,000 to C-04-16-014-000-100 & \$4,359 to C-04-25-000-100.
4. The Mayor and City Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 66-26

**RESOLUTION AWARDING CONTRACT TO REMINGTON & VERNICK ENGINEERS
FOR ENGINEERING CONSTRUCTION MANAGEMENT SERVICES – CDBG FUNDED
UNION ST ROAD IMPROVEMENTS**

WHEREAS, the City of Hackensack is desirous of improving and resurfacing various streets in and around the City of Hackensack, and has received two Community Development Block Grants (CDBG) totaling \$238,426, and now requires engineering services for the construction management and inspection of the bid contract to be awarded for the Union St Roadway Improvement Project; and

WHEREAS, the City solicited Requests for Proposals regarding these engineering services now required for said project; and

WHEREAS, it was determined that the proposal received from Remington & Vernick Engineers is the most advantageous to the City based on cost and expertise in this field.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. Remington & Vernick Engineers of One Harmon Plaza, Secaucus, NJ 07094 is hereby awarded a contract in an amount not to exceed \$32,000 for the construction management and inspection engineering services related to the CDBG partially-funded Union St. Roadway Improvement Project, in accordance with the proposal attached thereof.
2. A Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there is a sufficient appropriation to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.
3. The budget account to be charged is C-04-24-044-000-100.
4. The Mayor and City Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 67-26**

**RESOLUTION AWARDING CHANGE ORDER #2 (FINAL) TO
D.S. MEYER ENTERPRISES FOR CITY PARKING LOT “A”
/ ATLANTIC ST. GARAGE IMPROVEMENTS**

WHEREAS, the City of Hackensack desired to make improvements to City Parking Lot “A,” up to and including renovations to the rear entrance to the Atlantic St. Parking Garage; and

WHEREAS, the City awarded a bid contract in the amount not to exceed \$441,030 to D.S. Meyer Enterprises on March 25, 2025 as per Resolution #158-25; and

WHEREAS, the City awarded Change Order #1 in the amount not to exceed \$65,081 on July 14, 2025, as per Resolution #347-25; and

WHEREAS, as the project has now been completed and during the close-out it has been determined that certain reduced quantities have been utilized, necessitating a Change Order in the reduced amount of (-\$24,691.69); and

WHEREAS, the City Manager now recommends the awarding of Change Order #2 (Final) for this final change.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. D.S. Meyer Enterprises of 2 North St., Suite 2A, Waldwick, NJ 07403 is hereby awarded Change Order #2 in the reduced amount of (-\$24,691.69), bringing the total contract award to \$481,419.31 for the City Parking Lot A / Atlantic St. Parking Garage Improvement Project, in accordance with the documentation provided.
2. No Certification of Funds is required, as this is a reduction to the original amount of the award.

3. The City Clerk and Mayor are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK
RESOLUTION NO. 68-26

RESOLUTION CORRECTING RESOLUTION #382-25, ADOPTING A
PROTOTYPICAL DEFERRED COMPENSATION PLAN

WHEREAS, on August 11, 2025 the Mayor & Council of the City of Hackensack adopted Resolution #382-25, which approved the City’s Deferred Compensation Plan, and

WHEREAS, it was later determined said resolution was deficient because it did not contain the requisite Service Agreement Identifier, thus requiring a re-adoption; and

WHEREAS, the City of Hackensack Deferred Compensation Plan & Trust previously adopted a Deferred Compensation Plan, as identified by 74-PD-GWL-120208, for the purposes of:

- the desire to attract and retain qualified employees;
- the accrual of tax benefits to eligible employees through participation in a Deferred Compensation Plan as established pursuant to *Section 457* of the *Federal Internal Revenue Code*;
- the fact that there is no cost to the local government unit to adopt and implement a Deferred Compensation Plan; and
- the implementation of a Deferred Compensation Plan serves the interests of the local government unit by enabling it to provide enhanced retirement security to its eligible employees.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the City of Hackensack, County of Bergen, hereby adopts an updated Deferred Compensation Plan – **Service Agreement Identifier: 56-SA-GWL-010506**, provided by Empower Retirement, LLC, 21-PD-EMPOWER-110121, as follows:

Compliance With Internal Revenue Code

The City of Hackensack is adopting a Deferred Compensation Plan substantially similar to one on which a favorable Letter Ruling has been previously obtained from the federal Internal Revenue Service, except for provisions added by reason of the Small Business Job Protection Act of 1996 (United States Public Law No. 104-188) and the Economic Growth and Tax Relief Reconciliation Act of 2001 (Unities Stated Public Law No. 107-16) and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue Code Section 457. The use of the Ruling is for guidance only and acknowledged that for Internal Revenue Service purposes, the Ruling of another employer is not to be considered precedent.

Local Plan Administrator

The Chief Financial Officer and the Employee Benefits Clerk are hereby designated as the Local Plan Administrators for the administration of the Plan.
Statement of Non-Collusion (N.J.A.C. 5:37-5.7)

There has been no collusion, or evidence or appearance of collusion, between any local official and a representative of the contractor in the selection of a contractor for the administration of a Service Agreement pursuant to N.J.A.C. 5:37-5.7.

Execution of a Service Agreement and Contractor Identified

The Chief Financial Officer is authorized to execute a Service Agreement with Empower Retirement, LLC, and to submit all necessary documents to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

**CITY OF HACKENSACK
RESOLUTION NO. 69-26**

**RESOLUTION AWARDING A CO-OP CONTRACT FOR THE PURCHASE OF
THREE (3) BOBCAT UTILITY WORK VEHICLES**

WHEREAS, the Hackensack Parking Utility and Department of Public Works is in need of equipment to maintain the City’s parking lots, including the sidewalks and areas surrounding the lots, by keeping them clear and clean, and wishes to purchase one (1) Bobcat UW56 Utility Vehicle, one (1) Bobcat L28 Small Loader, and one (1) Bobcat UV34 Gas Utility Vehicle, including various necessary appurtenances; and

WHEREAS, the City of Hackensack wishes to purchase these goods by using the services of the Bergen County Cooperative Contract Purchasing System, pursuant to N.J.S.A. 40A:11-11(6): and

WHEREAS, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-12; and

WHEREAS, the City of Hackensack wishes to utilize the Bergen County Cooperative Contract #BC-BID-24-10; and

WHEREAS, North Jersey Bobcat, Inc. of 201 Maltese Dr., Totowa, NJ 07512 has been awarded Bergen County Co-Op Contract #BC-BID-24-10 as an authorized vendor under the Bergen County Cooperative Contract Purchasing System; and

WHEREAS, the Qualified Purchasing Agent recommends the utilization of this contract on the grounds that it represents the best available price; and

WHEREAS, the actual price of these three (3) Bobcat Utility Work Machine Vehicles, including various necessary appurtenances is expected not to exceed \$226,457.07.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of Hackensack, County of Bergen, as follows:

1. North Jersey Bobcat, Inc. of 201 Maltese Dr., Totowa, NJ 07512 is hereby awarded a contract in the amount not to exceed \$226,457.07 for the purchase of one (1) Bobcat UW56 Utility Vehicle, one (1) Bobcat L28 Small Loader, and one (1) Bobcat UV34 Gas Utility Vehicle, including various necessary appurtenances.
2. A Certification of Funds has been prepared by the Chief Financial Officer for the said contract assuring that a sufficient appropriation in budget

account 6-05-55-512-000-206 exists to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.

3. The Mayor and City Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The City Attorney shall review any and all contractual documents prepared in the furtherance of this award.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK
RESOLUTION NO. 70-26

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE BOND &
ESCROW - 95 ANDERSON ST.

WHEREAS, a request has been received for the release of the Performance Bond and any remaining escrow funds held for the project known as **95 Anderson St.**; and

WHEREAS, this project has posted the required Maintenance Bond as a prerequisite for the release of the Performance Bond; and

WHEREAS, the Chief Financial Officer has determined that the balance of escrow funds remaining for this project is **\$6,517.22**; and

WHEREAS, the City is in receipt of a certification as to the completeness of the project from the City Engineer and the Building / Land Use Department.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Hackensack, County of Bergen that the Chief Financial Officer is hereby directed to release the Performance Bond and the sum of \$6,517.22 in held escrow funds to Anderson Street Station Urban Renewal, LLC of 1870 Bath Ave., Brooklyn, NY 11214.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK
RESOLUTION NO. 71-26

RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$14,500,000 GENERAL OBLIGATION BONDS, SERIES 2026 OF THE CITY OF HACKENSACK, IN THE COUNTY OF BERGEN, NEW JERSEY AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY PURSUANT TO THE STATE FISCAL YEAR 2026 NEW JERSEY WATER BANK FINANCING PROGRAM IN CONNECTION WITH PROJECT NO. S340923-16 (ANDERSON ST DRAINAGE)

WHEREAS, the City of Hackensack (the "Local Unit") in the County of Bergen, New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate or install the Project (the "Project"), as defined in each of that certain Loan Agreement (the "I-Bank Loan Agreement") to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (the "I-Bank") and that certain Loan Agreement (the "Fund Loan Agreement" and together with the I-Bank Loan Agreement, the "Loan Agreements") to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State"), all pursuant to the State Fiscal Year 2026 New Jersey Water Bank Financing Program (the "Program");

WHEREAS, the Local Unit has determined to finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the "I-Bank Loan") and the State (the "Fund Loan" and together with the I-Bank Loan, the "Loans") pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit's General Obligation Bonds, Series 2026A to the I-Bank in an aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) (the "I-Bank Loan Bond") and General Obligation Bonds, Series 2026B to the State in the aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) (the "Fund Loan Bond" and together with the I-Bank Loan Bond, the "Local Unit Bonds") pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the "Local Bond Law"), other applicable law and the Loan Agreements; and

WHEREAS, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the I-Bank Loan Bond and the Fund Loan Bond to the I-Bank and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the I-Bank Loan Bond to the I-Bank, without any public offering, all under the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED by a 2/3 vote of the full membership of the governing body of the Local Unit as follows:

Section 1. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Local Unit hereby sells and awards its (a) I-Bank Loan Bond in an aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) to the I-Bank in accordance with the provisions hereof and (b) Fund Loan Bond in an aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) to the State in accordance with the provisions hereof. The Local Unit Bonds have been referred to and are described in bond ordinance #10-2022 of the Local Unit, which bond ordinance is entitled "BOND ORDINANCE PROVIDING FOR THE CLAY STREET AND ANDERSON DRAINAGE AREA COMBINED SEWER SEPARATION PROJECT, BY AND IN THE CITY OF HACKENSACK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY; APPROPRIATING \$14,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$14,500,000 BONDS OR NOTES TO FINANCE THE COST THEREOF" and was finally adopted by the Local Unit at a meeting thereof duly called and held on March 8, 2022, at which time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 2. The Chief Financial Officer of the Local Unit (the "Chief Financial Officer") is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the I-Bank and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the I-Bank Loan Bond and the Fund Loan Bond:

- (a) The aggregate principal amounts of the I-Bank Loan Bond and the Fund Loan Bond to be issued;

- (b) The maturity and annual principal installments of the Local Unit Bonds, which maturity shall not exceed forty (40) years;
- (c) The date of the Local Unit Bonds;
- (d) The interest rates of the Local Unit Bonds;
- (e) The purchase price for the Local Unit Bonds; and
- (f) The terms and conditions under which the Local Unit Bonds shall be subject to redemption prior to their stated maturities.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Local Unit Bonds by the parties authorized under Section 4(c) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Local Unit Bonds shall be as follows:

- (a) The I-Bank Loan Bond shall be issued in a single denomination and shall be numbered T-1. The Fund Loan Bond shall be issued in a single denomination and shall be numbered F-1;
- (b) The Local Unit Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Local Unit Bonds shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. The I-Bank Loan Bond and the Fund Loan Bond shall be substantially in the form set forth in the I-Bank Loan Agreement and the Fund Loan Agreement, respectively.

Section 6. The law firm of FBT Gibbons LLP, is hereby authorized to arrange for the printing of the Local Unit Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank and the State for the Program, to arrange for same. The Local Unit auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Local Unit Bonds. The Mayor, Chief Financial Officer and the Local Unit Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information.

Section 7. The terms of the Local Unit Bonds authorized to be set forth by the Chief Financial Officer in accordance with Section 2 hereof shall be ratified by the affirmative vote of 2/3 of the full membership of the governing body of the Local Unit.

Section 8. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Local Unit Bonds, and are further authorized to deliver same to the I-Bank and the State upon delivery of the Local Unit Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

Section 9. This resolution shall take effect immediately.

Section 10. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John Draikiwicz, Esq., FBT Gibbons LLP, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the I-Bank.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 72-26

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS TO BE EXECUTED BY THE CITY OF HACKENSACK AND EACH OF THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, ALL PURSUANT TO THE STATE FISCAL YEAR 2026 NEW JERSEY WATER BANK FINANCING PROGRAM IN CONNECTION WITH PROJECT NO. S340923-16 (ANDERSON ST DRAINAGE)

WHEREAS, the City of Hackensack (the “Local Unit”) in the County of Bergen, New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate or install the Project (the “Project”), as defined in each of that certain Loan Agreement (the “I-Bank Loan Agreement”) to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (the “I-Bank”) and that certain Loan Agreement (the “Fund Loan Agreement” and together with the I-Bank Loan Agreement, the “Loan Agreements”) to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the “State”), all pursuant to the State Fiscal Year 2026 New Jersey Water Bank Financing Program (the “Program”);

WHEREAS, the Local Unit has determined to finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the “I-Bank Loan”) and the State (the “Fund Loan”, and together with the I-Bank Loan, the “Loans”) pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit’s General Obligation Bonds, Series 2026A to the I-Bank in an aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) (the “I-Bank Loan Bond”) and the Local Unit’s General Obligations Bonds, Series 2026B to the State in the aggregate principal amount not to exceed \$7,250,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$14,500,000) (the “Fund Loan Bond”, and together with the I-Bank Loan Bond, the “Local Unit Bonds”) pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), other applicable law and the Loan Agreements; and

WHEREAS, the I-Bank and the State have expressed their desire to close in escrow the making of one or more of the Loans, the issuance of one or more of the Local Unit Bonds and the execution and delivery of one or more of the Loan Agreements, all pursuant to the terms of an Escrow Agreement (the “Escrow Agreement”) to be entered into by and among the I-Bank, the State, the Local Unit and the escrow agent named therein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. The I-Bank Loan Agreement, the Fund Loan Agreement and the Escrow Agreement (collectively, the “Financing Documents”) are hereby authorized to be executed and delivered on behalf of the Local Unit by either the Mayor or the Chief Financial Officer in substantially the forms attached hereto as Exhibit A, B and C, respectively, with such changes as the Mayor or the Chief Financial Officer (each an “Authorized Officer”), in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit (collectively, the “Local Unit Consultants”) and after further consultation with the I-Bank, the State and their representatives, agents, counsel and advisors (collectively the “Program Consultants”, and together with the Local Unit Consultants, the “Consultants”), shall determine, such determination to be conclusively evidenced by the execution of such Financing Documents by an Authorized Officer as determined hereunder. The Local Unit Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Local Unit as determined hereunder and to affix the corporate seal of the Local Unit to such Financing Documents.

Section 2. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Local Unit Clerk, as applicable, in their respective sole discretion, after consultation with the Local Unit Consultants, to be executed in connection with the execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deemed necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 3. This resolution shall take effect immediately.

Section 4. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John D. Draikiwicz, Esq., FBT Gibbons LLP, Bond Counsel to the Local Unit and Richard T. Nolan, Esq., McCarter & English, LLP, Bond Counsel to the I-Bank.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 73-26

RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$3,050,000 GENERAL OBLIGATION BONDS, SERIES 2026 OF THE CITY OF HACKENSACK, IN THE COUNTY OF BERGEN, NEW JERSEY AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY PURSUANT TO THE STATE FISCAL YEAR 2026 NEW JERSEY WATER BANK FINANCING PROGRAM IN CONNECTION WITH PROJECT NO. S340923-22 (SANITARY SEWER IMPROVMENTS)

WHEREAS, the City of Hackensack (the “Local Unit”) in the County of Bergen, New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate or install the Project (the “Project”), as defined in each of that certain Loan Agreement (the “I-Bank Loan Agreement”) to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (the “I-Bank”) and that certain Loan Agreement (the “Fund Loan

Agreement” and together with the I-Bank Loan Agreement, the “Loan Agreements”) to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the “State”), all pursuant to the State Fiscal Year 2026 New Jersey Water Bank Financing Program (the “Program”);

WHEREAS, the Local Unit has determined to finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the “I-Bank Loan”) and the State (the “Fund Loan” and together with the I-Bank Loan, the “Loans”) pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit’s General Obligation Bonds, Series 2026C to the I-Bank in an aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) (the “I-Bank Loan Bond”) and General Obligation Bonds, Series 2026D to the State in the aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) (the “Fund Loan Bond” and together with the I-Bank Loan Bond, the “Local Unit Bonds”) pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), other applicable law and the Loan Agreements; and

WHEREAS, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the I-Bank Loan Bond and the Fund Loan Bond to the I-Bank and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the I-Bank Loan Bond to the I-Bank, without any public offering, all under the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED by a 2/3 vote of the full membership of the governing body of the Local Unit as follows:

Section 1. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Local Unit hereby sells and awards its (a) I-Bank Loan Bond in an aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) to the I-Bank in accordance with the provisions hereof and (b) Fund Loan Bond in an aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) to the State in accordance with the provisions hereof. The Local Unit Bonds have been referred to and are described in bond ordinance #42-2020 of the Local Unit, which bond ordinance is entitled “BOND ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS TO THE STORMWATER AND SANITARY SEWER SYSTEMS, BY AND IN THE CITY OF HACKENSACK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY; APPROPRIATING \$3,050,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,050,000 BONDS OR NOTES TO FINANCE THE COST THEREOF” and was finally adopted by the Local Unit at a meeting thereof duly called and held on October 20, 2020, at which time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 2. The Chief Financial Officer of the Local Unit (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the I-Bank and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the I-Bank Loan Bond and the Fund Loan Bond:

- (a) The aggregate principal amounts of the I-Bank Loan Bond and the Fund Loan Bond to be issued;
- (b) The maturity and annual principal installments of the Local Unit Bonds, which maturity shall not exceed forty (40) years;
- (c) The date of the Local Unit Bonds;
- (d) The interest rates of the Local Unit Bonds;

- (e) The purchase price for the Local Unit Bonds; and
- (f) The terms and conditions under which the Local Unit Bonds shall be subject to redemption prior to their stated maturities.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Local Unit Bonds by the parties authorized under Section 4(c) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Local Unit Bonds shall be as follows:

- (a) The I-Bank Loan Bond shall be issued in a single denomination and shall be numbered T-1. The Fund Loan Bond shall be issued in a single denomination and shall be numbered F-1;
- (b) The Local Unit Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Local Unit Bonds shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. The I-Bank Loan Bond and the Fund Loan Bond shall be substantially in the form set forth in the I-Bank Loan Agreement and the Fund Loan Agreement, respectively.

Section 6. The law firm of FBT Gibbons LLP, is hereby authorized to arrange for the printing of the Local Unit Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank and the State for the Program, to arrange for same. The Local Unit auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Local Unit Bonds. The Mayor, Chief Financial Officer and the Local Unit Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information.

Section 7. The terms of the Local Unit Bonds authorized to be set forth by the Chief Financial Officer in accordance with Section 2 hereof shall be ratified by the affirmative vote of 2/3 of the full membership of the governing body of the Local Unit.

Section 8. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Local Unit Bonds, and are further authorized to deliver same to the I-Bank and the State upon delivery of the Local Unit Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

Section 9. This resolution shall take effect immediately.

Section 10. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John Draikiwicz, Esq., FBT Gibbons LLP, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the I-Bank.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Deputy Mayor Toomey			X				
Clark-Collins		X	X				
Carroll	X		X				
Diaz			X				
Mayor Gaines			X				

CITY OF HACKENSACK

RESOLUTION NO. 74-26

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS TO BE EXECUTED BY THE CITY OF HACKENSACK AND EACH OF THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, ALL PURSUANT TO THE STATE FISCAL YEAR 2026 NEW JERSEY WATER BANK FINANCING PROGRAM IN CONNECTION WITH PROJECT NO. S340923-22 (SANITARY SEWER IMPROVEMENTS)

WHEREAS, the City of Hackensack (the “Local Unit”) in the County of Bergen, New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate or install the Project (the “Project”), as defined in each of that certain Loan Agreement (the “I-Bank Loan Agreement”) to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (the “I-Bank”) and that certain Loan Agreement (the “Fund Loan Agreement” and together with the I-Bank Loan Agreement, the “Loan Agreements”) to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the “State”), all pursuant to the State Fiscal Year 2026 New Jersey Water Bank Financing Program (the “Program”);

WHEREAS, the Local Unit has determined to finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the “I-Bank Loan”) and the State (the “Fund Loan”, and together with the I-Bank Loan, the “Loans”) pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit’s General Obligation Bonds, Series 2026C to the I-Bank in an aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the I-Bank but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) (the “I-Bank Loan Bond”) and the Local Unit’s General Obligations Bonds, Series 2026D to the State in the aggregate principal amount not to exceed \$1,525,000 (unless a higher amount is required by the State but in no event shall the General Obligation Bonds, Series 2026 in the aggregate exceed \$3,050,000) (the “Fund Loan Bond”, and together with the I-Bank Loan Bond, the “Local Unit Bonds”) pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), other applicable law and the Loan Agreements; and

WHEREAS, the I-Bank and the State have expressed their desire to close in escrow the making of one or more of the Loans, the issuance of one or more of the Local Unit Bonds and the execution and delivery of one or more of the Loan Agreements, all pursuant to the terms of an Escrow Agreement (the “Escrow Agreement”) to be entered into by and among the I-Bank, the State, the Local Unit and the escrow agent named therein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. The I-Bank Loan Agreement, the Fund Loan Agreement and the Escrow Agreement (collectively, the “Financing Documents”) are hereby authorized to be executed and delivered on behalf of the Local Unit by either the Mayor or the Chief Financial Officer in substantially the forms attached hereto as Exhibit A, B and C, respectively, with such changes as the Mayor or the Chief Financial Officer (each an “Authorized Officer”), in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit (collectively, the “Local Unit Consultants”) and after further consultation with the I-Bank, the State and their representatives, agents, counsel and advisors (collectively the “Program Consultants”, and together with the Local Unit Consultants, the “Consultants”), shall determine, such determination to be conclusively evidenced by the execution of such Financing Documents by an Authorized Officer as determined hereunder. The Local Unit Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Local Unit

as determined hereunder and to affix the corporate seal of the Local Unit to such Financing Documents.

Section 2. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Local Unit Clerk, as applicable, in their respective sole discretion, after consultation with the Local Unit Consultants, to be executed in connection with the execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deemed necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 3. This resolution shall take effect immediately.

Section 4. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John D. Draikiwicz, Esq., FBT Gibbons LLP, Bond Counsel to the Local Unit and Richard T. Nolan, Esq., McCarter & English, LLP, Bond Counsel to the I-Bank.

VII. PUBLIC COMMENT (3 MINUTES):

A motion to open the meeting to the public was offered by Councilman Carroll and seconded by Councilwoman Clark Collins.

Marlene Sommerville – Good evening. Happy 2026 since I haven't seen you guys. I am here to give the update for the first quarter for TANAAC which is the Teterboro Airport Noise Abatement Advisory Committee. TANAAC met on January 21, it was the first meeting of the year. We discussed what was on the agenda from October which was the update from the FAA. The FAA attended the meeting in January and gave the understanding that they will be proceeding with doing the noise abatement procedures that we had done under the prior Council. The start date was supposed to be January 19th but due to updates of the technology in the aircraft, they asked to delay it to the 19th of February. On the 19th of February they will start the process for asking the airlines and pilots to use the alternate route, that is only one of four. The idea is to come in over Route 17 offset over the water and swing back because the pilots prefer a straight landing into the airport instead of curved. We will be doing the initial implementation of that. A couple updates, there will be airport construction which will start in January and conclude in July of 2026. FIFA is coming to New Jersey so there will be uptick in the traffic coming in and out of Teterboro Airport. Due to FIFA there will be come increase in the complaints about the noise. We asked for a schedule of the incoming and outgoing flights based on the expectations, we don't have that yet but I will follow up to see if we can get a schedule. I'll send it on to Mr. Hoffman and Allison so they can share it with the Council. The other part of the update is runway 19 is adding redesign. There will be a straight segment on the flight path that is the expectation to reduce noise on runway 19. Runway 24 they will be asking the pilots to use 24 for most of the departures. Currently the complaint is that they use runway 6 at night which causes significantly more noise because it goes over Hackensack when they are departing. The last part of the update is that for Hackensack there is a, we had sent in information to the City of New York under the quality of life assessment under the noise complaint, we had sent it to the Governor of NJ. We were also going to reach out to Representative Gottheimer's office but I didn't get feedback on that.

Mayor Gaines responded – I have spoken to Cole who is his staffer and so Congressman Gottheimer is going to have a meeting scheduled where he is supposed to be in contact with the FAA in terms of that. His office is aware of that.

Ms. Sommerville continued – So that is in progress. That is the last part of that. I did ask Teterboro if once we have settled into the first quarter, to have them come before you guys just to have a meeting and do an introduction and then we can give the

Council an opportunity to ask any questions if they have anything about the process, procedures, and what is on-going. My expectation is probably sometime in the future, once everything is settled in, we will set up a meeting. Beyond that, is there any questions?

Collin Delibero – I reside at 403 Prospect Avenue. I am here to request that our building be added to the residential parking permit program under Section 170-71E, consistent with Ordinance 57-2021 which granted eligibility to 406 Prospect Avenue, the apartment building directly across the street from mine. Our building has limited on site parking and residents rely heavily on street parking in the surrounding area. Just as the Council recognized 406 Prospect Avenue circumstances, I feel that our building meets the same conditions. Through my own walk around the complex, I want to share some data with the Council. In my apartment complex, I counted about 40 units for residents to reside in. If we assume a unit has two working adults, each with a vehicle to go to and from work, that would be two cars per unit. That would be 80 vehicles. Also, I identified 53 available spots for vehicles to be parked including garage and on site surface lot parking. I would like to note that some of the garage spaces are currently being used for landlord storage as well as garbage storage with dumpster spaces, as well as non-tenant or former tenant belonging or car storage which I recognize that occurs in my complex where tenants may move out and the landlord will allow for belongings to be stored or cars. That is about 27 vehicles by my calculations needing street parking in the same location at 406 Prospect Avenue and that is a conservative estimate of 27 that would have a definite need for street parking based on the conditions at my apartment complex. I have submitted a written request and am happy to provide any additional documentation if needed.

Silvia Huges – I reside on DeWolf Place. I have been a resident there for over 30 years and have watched the traffic change on that street. There was a resolution at one time for permit parking for DeWolf Place and I don't know what has happened, I thought it was going to be bought up again in January but nothing has occurred. This last snow storm I watched a car with three different people who live on Prospect Avenue drive down to my street. All three of them got out. They had two other cars that they parked on that street. On the corner of Prospect and Passaic Street, they have a parking lot but they have to pay for that parking. The residents from that street, Prospect Avenue, come down to DeWolf Place and they park, two and three of them. We have no place to park. Some of us have driveways but they have options, they can rent a space. We don't have an option, we only have a driveway and in front of our homes. There is three people that drive in my house, my granddaughter, my son in law and my daughter. The two cars once they are parked, my granddaughter has to drive around and around to find a parking space because of the people on Prospect Avenue. At this point we need to revisit parking permits for DeWolf Place and would appreciate that being done.

Mayor Gaines responded – I am going to provide you instant gratification. We did approve of that ordinance for the amendment to the parking stickers in January. That was done. In terms of if that was communicated to the residents, I am going to ask Monica from the Manager's Office to take notes. If that is not yet being enforced, I know once we pass an ordinance there is a period of time by which we have to wait until the ordinance is actually in effect. We did take the action so it is coming. In terms of the logistics, I will let Monica make a note of it.

Randy Glover – I am the Executive Director of All Access Community Development Corporation. Before I start out, I'd like to say that myself and HACPAC were pleased to present Matthew Whitaker here in the park when we were doing concerts when he was about 14 or 15 years old. At that time it was myself, Greg Liosi, and Frank, we were presenting performances of people who live in Hackensack and at the same time giving scholarships to students from Hackensack. Hopefully we can start to do that again. That's that. I am speaking this evening about a program I started in partnership with Paula's Restaurant on Main Street. What we have been doing is the senior community food table where we are charging \$7 for a meal for seniors 55+ and people with disabilities. We started with the MLK Center, we have almost 100 percent compliance

there. We are going to the United Center and we are in the Hackensack senior housing facilities. What we are hoping is that the City comes aboard and helps spread the word that this is what we are doing. This past week they had a choice of turkey wings, beef ribs. The other week they had chicken wings, mac and cheese, and collared greens. This coming week we are offering oxtails, peas and rice, and sweet plantains, and a couple other choices. I have flyers in English and Spanish for everyone. I am going to give them to Allison. Hopefully the City will join us with the program. As you know during Covid, our small little rag tag team distributed 50,000 meals a month in Hackensack. We are all seniors helping this City. Let's work together and make it happen. Thank you.

Rich Cerbo – I just wanted to get in on honoring the African Americans that we started with but there are so many more people that should be mentioned in Hackensack. The few you mentioned are wonderful. Mayor Townes, love him. You mentioned Councilman Leverett, I was a teenager, I remember him. There are many others not mentioned. Maybe we could get back around to that one day and mention more people in town that made Hackensack happening, it really is a special place for them. Lastly, I just want to mention that years ago in the 70s now, he passed away today, Jesse Jackson spoke at Hackensack High School on the football field and the place was packed. One thing I can say about Jesse is he made sense. Jesse made sense. I enjoyed listening to him, he ran for President twice and I voted for him. I just wanted to mention him, I heard he passed today at 84 years old, rest in peace Jesse Jackson. Like I said, all the others that should be mentioned around town, even yourself Mayor. You are on the list too.

Marlene Sommerville on behalf of the Environmental Commission – We had initially come before to ask about the open space trust fund, did we have any resolution on that yet? To be used for the upgrade activities as part of the environmental commission like the maintenance of the triangles.

Mayor Gaines responded – Absolutely, that falls under the purview of open space.

Ms. Sommerville responded – And then we had already had it for the ERI, I wasn't sure if we got feedback on that.

City Attorney responded – I don't remember what we came up with on that Mayor. I know you had directed me to look into that.

Mayor Gaines responded – My recollection is that it could be used for the ERI. That was my recollection. I know we did ask, but let's just be safe and I know it was looked into and the attorney provided an answer but that was a few months ago, so let's put a pin in that and we will give you a definitive answer at the next meeting.

Ms. Sommerville responded – Deputy Mayor Toomey is on our committee so if anything, she can bring the information to the next meeting.

No one else wished to speak.

A motion to close the meeting to the public was offered by Councilman Carroll and seconded by Deputy Mayor Toomey.

VIII. MAYOR AND COUNCIL COMMENTS:

Deputy Mayor Toomey – Thank you for coming out on this spring like day finally. We welcome the heat wave today. I would like to start by thanking Marlene for the update on TANAAC. It is always welcome. I would like to thank Chief Antista for bringing us up to date and making us aware of how things work within the department to make it better. We certainly welcome that especially since our City is growing and there are so many people coming into our City because of all the buildings that have gone up, not through us by the way. Thank you again. Additionally, I would like to offer

congratulations to everyone here this evening and was recognized through a proclamation. It is always a privilege to formally acknowledge the accomplishments, contributions, and milestones of members of our community. Celebrating these moments reminds us of the strength, dedication, and spirit that make our community such a special place. Thank you again for being here, for staying engaged, and for continuing to contribute to the betterment of our community.

Councilwoman Clark-Collins – Again, Congratulations to Matthew Whitaker and I want to say as your City Councilwoman I want to personally encourage everyone to come out and support the wonderful events happening throughout our community this February. These gatherings are more than just dates on a calendar, they are opportunities to connect with neighbors, celebrate local achievements, and strengthen the heart of our City. We recently celebrated the grand opening of two fantastic new restaurants on main street: Mr. Waffles at 75 Main Street and Guac Time at 221 Main Street. Their investment in our downtown is a sign of continued growth and confidence in our community. When we chose to dine locally, we support small business owners and their families, help create local jobs, keep tax dollars circulating within our city, strengthen Main Street's vitality and economic development, show future businesses that our community is welcoming and supportive. Our presence at grand openings and community events sends a powerful message, we believe in our City and each other. I encourage you to mark your calendars, attend upcoming February events and make a point to visit our newest Main Street restaurants whether it is lunch with friends, a family dinner, or a quick stop to check them out, support makes a real difference. Let's not also forget that in celebration of Black History Month, the Recreation Center will be hosting a luncheon on Thursday February 26th from 11:30 AM to 2:30 PM. This event is free to everyone 18 and over but you must have a ticket to get in. Tickets are available now by calling the rec center. Let's continue building a strong vibrant community together and as always, thank you for coming and get home safe.

Councilman Carroll – Good evening. Chief Antista, thank you for explaining that table of organization, nothing has changed, keep up the good work. Mr. Townes, congratulations, thank you for accepting that proclamation on behalf of everyone. You are a pillar of our community. Love to see you here all the time. Mr. Glover, keep up the good work, I see on Facebook, I haven't made it for lunch yet but it is on my list. Thank you for coming out. That's all I have.

Councilman Diaz – Good evening. I have some things to say tonight so I want to take a moment to celebrate a few things that made Hackensack truly special. First, I want to mention on Thursday of last week, Mayor Gaines and I had the opportunity to participate at the observance of Ramadan event. It was quite an experience. It was my first and it was great. Also, a huge congratulations to our own Matthew Whitaker, the proud Hackensack native and now Grammy award winner. Matthew, your talent discipline and heart represents the very best of our city. You show our young people that greatness can start right here at home. As we continue celebrating Black History Month, we honor the generations of black leaders, educators, artists, and families whose contributions have shaped Hackensack and the nation. Their resilience, excellence, and leadership are part of our shared story. I don't want to leave here tonight without saying thank you to Chief Antista for doing the right thing. As we recognize the independence of the Dominican Republic, I stand here especially proud as the first Dominican elected to serve as Councilman in Hackensack. It is an honor that belongs not just to me but every family that believes in opportunity, hard work, and community. So, all the Dominican friends that are here, this is for you. By the way, we were supposed to celebrate the Dominican Independence on February 27 with the Dominican flag raising with a special event at night, but we got some schedule conflicts. We want to celebrate on August 16 so mark that date because we are going to have the Dominican flag raising and then an event in the evening with dancing, food, etc. so be prepared for that. Finally, I also want to thank my fellow councilmembers for the proclamation and your continued partnership. To everyone here, thank you for showing up, staying engaged as usual, and being part of our civic life of our city. That's what keeps Hackensack strong. Thank you, have a good one.

Councilwoman Clark Collins – I just want to mention that today from the Bergen County Board of Commissioners, they are having a Dominican Republic Independence Day on Thursday, February 26 at 5:30 PM at the Conference Center at 2 Bergen County Plaza. Maybe we can put this in the newsletter but they are having something in celebration of Dominican Republic Independence Day.

Mayor Gaines – Once again, as the Councilman said, we went to a Ramadan celebration on Thursday. It was wonderful. It was a great community event. In fact, what was very significant about that, the Councilwoman just mentioned the County having an event. This was the third or fourth time they have done this event in Hackensack, and it had always been a County event but this was the first time they had enough participants for it to be a Hackensack centric event, and the attendance was just the same as it was when it was a countywide event. It is an event that is growing, it was at the HACPAC, and it was a wonderful time there last week. Once again, I want to highlight some things my colleagues have said. Mr. Waffles, delicious. Guac Time, delicious. Phil will attest to Guac Time, we both had the same meal, and it was absolutely delicious. Truly, as the Councilwoman said, when you are supporting these businesses, you are not just supporting the businesses, you are also supporting a lot of our residents who are working in these businesses. Keeping them alive and sustained is important for many times, our young kids and recent college graduates who are working their first and second jobs. This is wonderful and it is important to show as a community that we support them, and the food is also delicious. It is a win win for everyone. I don't want to be too redundant, but what I do want to say is, particularly at this meeting where we had Matthew Whitaker, Black History Month, and Dominican Independence, there is such a vibrancy to this community that has always existed. Hackensack is the first destination for many people who come to this country. Our Deputy Mayor herself is an immigrant, we have Roberto the first Dominican Councilman, I am the second black Mayor of Hackensack, and this is a community that celebrates the richness of everyone. That is why we try to go to as many events as we can, as many cultural events, we try and celebrate everyone. If there is something we have missed, please let us know. Don't be shy about being proactive about it. People reach out to the Clerk's Office and flag for us that something is coming up, just to make sure. Even Ms. Sommerville did that with something a few months ago. Please just keep us in the loop. We want to make sure that everyone within the City limits knows that they are valuable and that they have something to contribute as they always have. That's the story of Hackensack.

IX. ADJOURN:

There being no further business, the meeting was adjourned at 7:34 PM.

Approved by Mayor and Council on March 3, 2026.

Mayor Caseen Gaines

Deputy Mayor Agatha Toomey

Councilwoman Sonya Clark-Collins

Councilman Phillip Carroll

Councilman Roberto Diaz

Deputy City Clerk Allison Saabye, RMC