

NOTICE OF PENDING ORDINANCE 958

The following Ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of the Township of Boonton, in the County of Morris, New Jersey, held on March 9, 2026. It will be further considered for final passage after the public hearing thereon, at a regular meeting of said Township Committee to be held in the Municipal Building in said Township on April 13, 2026 at 7:00 o'clock PM, and during the week prior to and up to and including the date of such meeting, copies of said ordinances will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

Douglas Cabana, Municipal Clerk

Dated: March 9, 2026

ORDINANCE # 958

AN ORDINANCE OF THE TOWNSHIP OF BOONTON COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER 102 "LAND USE," SECTIONS 102-4 "TERMS DEFINED", 102-190 "MIXED-INCOME HOUSING" AND 102-198 THRU 102-206 "HOUSING REHABILITATION PROGRAM" OF THE CODE OF THE TOWNSHIP OF BOONTON.

WHEREAS, P.L. 2024, c. 2 ("FHA-2"), sets forth deadlines for municipalities to complete the Fourth-Round affordable housing compliance process in order to secure a Compliance Certification from the County Mount Laurel Judge; and

WHEREAS, a Compliance Certification protects municipalities from exclusionary zoning and builder's remedy litigation for the ten-year period commencing on July 1, 2025 and continuing to June 30, 2035; and

WHEREAS, the Township has been working diligently and has been fully compliant throughout the entire Fourth Round affordable housing process, and to date the Township has met all deadlines imposed by the State under the FHA-2; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1f(2)(c), of the FHA-2 the Township is required to adopt all Fourth Round affordable housing implementation ordinances by March 16, 2026 as a condition of securing a Compliance Certification from the Court; and

WHEREAS, in order to protect the interests of the Township and maintain compliance with P.L. 2024, c.2; the Township Committee finds it necessary and proper to adopt updated affordable housing ordinances to conform with recent changes to State statutory and regulatory laws; and

WHEREAS, the Township Attorney and Township Planner have reviewed and thoroughly vetted the provisions of this ordinance and recommend the Township Committee adopt same.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Boonton, County of Morris, State of New Jersey, that the Code of the Township of Boonton is hereby amended as follows:

SECTION 1. Section 102-4 entitled “Terms Defined” within Chapter 102 of the “Land Use” Code of the Township of Boonton is hereby amended by repealing the provisions appearing below with a ~~strikethrough~~ and adding the text appearing in underline and italics as follows:

#PART 10 HOUSING REHABILITY PROGRAM

#CHAPTER 101 “AFFORDABLE HOUSING” SECTION 101-03

“#FHA,” and “FHA-2” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. as amended by P.L. 2024, c.2.

“#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 can include, 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 as approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

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

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

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

“#Affordable unit” means a housing unit proposed or developed pursuant to the FHA, including units created with municipal affordable housing trust funds.

“#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.

“#Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

#“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.

SECTION 2. §102-190 “Mixed-Income Housing” within Chapter 102 of the “Land Use” Code of the Township of Boonton is hereby amended by repealing the provisions appearing below with a ~~strike~~ and adding the text appearing in *underline and italics* within subsection “D” of §102-190 as follows:

D. Affordable Units. ~~At least twenty percent (20%) of the total units, whether rental or owner-occupied, shall be set aside for very-low, low-and moderate-income households, with at least 50% of said units reserved for very-low and low-income households. Affordability controls, affirmative marketing, and all related components associated with qualifying units for affordable housing credits in the Township’s Housing Element and Fair Share Plan shall comply with rules and regulations established by the Council on Affordable Housing or its successor, or a court of competent jurisdiction.~~ *in accordance with the Township’s most recently approved Housing Element and Fair Share Plan, shall comply with the FHA, FHA-*

2. the Uniform Housing Affordability Controls adopted by the Housing and Mortgage Finance Agency at N.J.A.C. 5:80-26.1 et seq., the Division of Local Planning Services Affordable Housing Rules, and the Township's Affordable Housing Ordinance at Chapter 101 of the Code of the Township of Boonton.

SECTION 3. §§102-198 thru 102-206, Part 10 "Housing Rehabilitation Program" within Chapter 102 of the "Land Use" Code of the Township of Boonton is hereby amended by repealing the provisions appearing below with a ~~strike through~~ and adding the text appearing in underline and italics as follows:

§102-198 Purpose.

- A. **[No change]**
- B. **[No change]**
- C. Effective March 9, 2026 up to four (4) existing dwelling units either occupied by very-low, low- or moderate-income households or rented to very-low, low- or moderate-income households shall eligible to apply for the Township's Housing Rehabilitation Program.
- D. In addition to the provisions set forth in this Part 10 of the Land Use Code of the Township of Boonton, all owners, landlords and occupants of dwelling units applying for or obtaining funds from the Township's Housing Rehabilitation Program shall at all times comply with the applicable provisions of the Township's Affordable Housing Code set forth at Chapter 101 of the Code of the Township of Boonton, and the provisions of the Township of Boonton's most recent Operating Manual for the Administration of Rehabilitation Units.

§102-200 Eligibility.

- A. **[No change]**
- B. **[No change]**
- C. **[No Change]**
- D. Any grant from the housing rehabilitation trust fund shall be secured by a ~~lien on the rehabilitated property~~ restrictive covenant subject to the terms and conditions set forth in § 102-201 of this Part 10 ~~requiring that the dwelling unit shall remain affordable to very low-, low- and moderate-income households for a period of at least 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.~~
- E. The provisions of this Part 10 shall apply to all housing units which receive assistance through the Housing Rehabilitation Program established herein. The applicant shall agree, in writing, to comply with its terms, the Township's Affordable Housing Code set forth at Chapter 101 of the Code of the Township of Boonton, and the provisions of the Township of Boonton's most recent Operating Manual for the Administration of Rehabilitation Units.

§102-201 Terms of assistance.

Grants provided to eligible applicants under the housing program shall be subject to the following terms and conditions:

- A. The maximum amount of assistance per dwelling unit and/or applicant shall be ~~\$15,000~~ \$12,500.
- B. Owner-occupied housing. Rehabilitation assistance for owner-occupied housing shall be in the form of a non-interest-bearing, deferred-payment loan with a term of ~~six~~ ten years, which is secured by a mortgage on the property. Such loan shall convert to a full grant and the lien shall be discharged at the end of the ~~six~~ ten-year term, so long as the owner has not vacated the premises or transferred title to the property prior to the expiration of said term. An owner who conveys or vacates the property shall be required to repay the loan in full at such time as the owner conveys title or ceases to occupy the property unless said conveyance is to another low- or moderate-income household at an affordable sales price. In the event of conveyance of the dwelling unit to another low- or moderate-income household during said ~~six~~ ten-year term, such conveyance shall be subject to the mortgage lien which shall remain in effect for the balance of the ~~six~~ ten-year term.

C. [No Change]

D. [No Change]

§102-202 Affordability controls for rental housing.

[No Change]

§102-203 Affordability controls for owner-occupied single-family units.

For rehabilitation assistance for owner-occupied single-family housing units, the applicant shall consent to a deed restriction and mortgage lien to be recorded, requiring that the dwelling unit be sold only to low- and moderate-income households. This deed restriction shall be a real covenant running with the land and shall bind the applicant and all successors in interest for a period of ~~six~~ ten years from the date of closing on the deferred-payment loan. The deed restriction shall be termed the "sales affordability control" and shall be in a form satisfactory to the Township Attorney and shall comply with all the following requirements:

- A. Prior to a sale of an owner-occupied single-family housing unit, the owner shall apply for a certificate of affordable housing from the Housing Officer. The application shall include a copy of the proposed contract of sale and the affidavit by the owner that the affordable sales restriction will be adhered to. Upon request, the Housing Officer will assist the owner in locating an income-eligible purchaser. Any prospective purchaser must submit adequate proof of household income and household size. If the Housing Officer or designee determines that the proposed sale will be in compliance with the affordability control, then a certificate of affordable housing shall be issued.
- B. The sales price of a rehabilitated owner-occupied single-family housing unit may increase annually based on the percentage increase in the regional median income limit for the region as established by the Council on Affordable Housing.

- C. Owners of rehabilitated owner-occupied single-family housing units may apply to the Housing Officer for permission to increase the maximum sales prices for eligible capital improvements which render the unit suitable for a larger household, provided that the maximum price of the improved housing unit does not exceed the limits of affordability for the larger households.

SECTION 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Boonton, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Boonton are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 5. The Township Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63.

SECTION 6. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Boonton for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 7. Upon the adoption of this Ordinance and after a public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance as finally adopted with the Morris County Planning Board, as required by N.J.S.A. 40:55D-16. The Township Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S.A. 40:49-2.1

SECTION 8. This ordinance may be re-numbered for the purposes of recodification.

SECTION 9. This ordinance shall take effect upon publication and in accordance with the law.