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**BERNARDSVILLE BOROUGH
ORDINANCE 2026-2040**

**AN ORDINANCE CONCERNING AFFORDABLE HOUSING SET-ASIDES AND
AMENDING ARTICLE 13 OF THE BOROUGH LAND DEVELOPMENT
REGULATIONS ENTITLED “AFFORDABLE HOUSING”**

WHEREAS, the Borough Land Development Regulations currently provide that, “Any residential or mixed-used development, within the public sewer service area... that produces five or more housing units, shall be required to provide for affordable housing set aside of at least 20% of the total housing units in “for sale” developments with 15% of the total housing units in “rental” developments...”; and

WHEREAS, the Borough has agreed to require a 20% set aside as part of its Fourth Round Affordable Housing obligation

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Article 13 of the Borough Land Development Regulations entitled “Affordable Housing is hereby amended as follows:

Section 1. Paragraph “e” of § LD-13-1.5 entitled “New Construction” is hereby amended to read as follows:

e. “Affordable Housing Set-Asides.

1. Any residential or mixed-use development, within the public sewer service area of the municipality, that produces five or more housing units, shall be required to provide for affordable housing set-asides of at least 20% of the total housing units in either "for-sale" or "rental" developments ~~and 15% of the total housing units in "rental" development.~~ When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit.
2. ~~Residential development with between six and 10 units may make a payment in lieu of on-site construction of affordable units. For purposes of this section, the~~

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~~payment-in-lieu of affordable housing shall initially be established as \$180,000 per unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit and is based on the now expired COAH rule, set forth at N.J.A.C. 5:97-6.4 which was \$145,903 for Region 3 in 2009, as adjusted for inflation. When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit in the Borough. The Borough Council may adjust the presumptive amount based upon appropriate evidence."~~

Section 2. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 3. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 4. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor