

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2007 - 1**

AN ORDINANCE AMENDING CHAPTER 39, ENTITLED "OFFICERS AND EMPLOYEES", OF THE CODE OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY, BY CREATING A NEW ARTICLE VIII, ENTITLED "MUNICIPAL HOUSING LIAISON", FOR THE PURPOSE OF ADMINISTERING THE BOROUGH OF PENNINGTON'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT

WHEREAS the Borough of Pennington Planning Board adopted a "Housing Element", dated February 1994 and revised through March 1995, pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS the Borough Council of the Borough of Pennington has complied with the requirements of the New Jersey Council On Affordable Housing (COAH) and petitioned the New Jersey Council On Affordable Housing (COAH) for "Substantive Certification" on August 27, 1996; and

WHEREAS the New Jersey Council On Affordable Housing (COAH) granted final "Substantive Certification" to the Borough of Pennington on June 5, 2002; and

WHEREAS the Borough of Pennington has committed to address its third round fair share obligation by petitioning COAH for review and certification of a newly adopted "Housing Plan Element And Fair Share Plan" in accordance with N.J.A.C. 5:94 et seq. and N.J.A.C. 5:95 et seq. by May 15, 2007; and

WHEREAS COAH requires that each certified municipality appoint a specific municipal employee to serve as a "Municipal Housing Liaison" to be responsible for administering its affordable housing program, including affordability controls and the "Affirmative Marketing Plan", and, where applicable, supervising any contracting "Administrative Agent".

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Pennington, in the County of Mercer and the State of New Jersey, that a new Article VIII, to be titled, "Municipal Housing Liaison", be included in Chapter 39, entitled "Officers and Employees", of the Code of the Borough of Pennington to create the position of "Municipal Housing Liaison" for the purpose of administering the Borough of Pennington's affordable housing program pursuant to the New Jersey Fair Housing Act of 1985, as follows:

SECTION 1. Add a new Article VIII, to be entitled "Municipal Housing Liaison", to Chapter 39 of the Code of the Borough of Pennington to read in its entirety as follows:

**"ARTICLE VIII
MUNICIPAL HOUSING LIAISON**

39-28. Purpose.

The purpose of this article is to create the administrative mechanisms needed to discharge the responsibility of the Borough of Pennington to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

39-29. Definitions.

- A. "Municipal Housing Liaison" means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program of the Borough of Pennington.
- B. "Administrative Agent" means the entity responsible for administering the affordability controls of some or all of the restricted units in the affordable housing program of Pennington Borough, as designated pursuant to N.J.A.C. 5:80-26.14.

39-30. Establishment of Municipal Housing Liaison Position.

- A. There is hereby established the position of Municipal Housing Liaison of the Borough of Pennington.
- B. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee, subject to the approval of the New Jersey Council on Affordable Housing (COAH)..

39-31. Compensation.

Compensation for the Municipal Housing Liaison, if any, shall be fixed by the governing body at the time of appointment.

39-32. Administrative Powers and Duties.

- A. The Municipal Housing Liaison shall be responsible for the oversight and administration of the affordable housing program of the Borough of Pennington, including the following responsibilities which may not be contracted out:
- (1) serving as Pennington Borough's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) monitoring the status of all restricted units in the Borough of Pennington's Fair Share Plan;
 - (3) compiling, verifying, and submitting annual reports as required by COAH;
 - (4) coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered and/or approved by COAH; and
 - (6) if applicable, serving as the Administrative Agent for some or all of the restricted units in Pennington Borough, as described in §39-32.C. of this article hereinbelow.
- B. Subject to approval by COAH, the Borough of Pennington may contract with or authorize a consultant, authority, government or any agency charged by the governing body to administer the affordable housing program of Pennington Borough. If the Borough contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- C. The following administrative powers and duties shall be specifically delegated to an approved Administrative Agent as set forth by contract, or shall be performed by the Municipal Housing Liaison when not specifically delegated to an approved Administrative Agent:
- (1) Affirmative Marketing.
 - (a) Conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of Pennington Borough and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) 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.
 - (2) Household Certification.
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) 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;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form of either the ownership or rental certificates set forth in Appendices "J" and "K" of N.J.A.C. 5:80-26.1 et. seq., as applicable;
 - (e) Creating and maintaining a referral list of eligible applicant households with members living or working in the housing region where the units are located; and
 - (f) Referring households for certification to affordable units employing the random selection process as provided in the Affirmative Marketing Plan of the Borough.

- (3) Affordability Controls.
 - (a) Furnishing to attorneys or closing agents the forms of deed restrictions and mortgages for recording, at the time of conveyance of title to each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring removal of deed restrictions and cancellation of mortgage note through proper filing with the county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of "Continuing Certificates of Occupancy" or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and Rental.
 - (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low and moderate income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing Requests from Unit Owners.
 - (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - (b) 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 cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement.
 - (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
 - (b) 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;
 - (c) Annually posting in all rental properties, including two-family homes, a notice of the maximum permitted rent together with the telephone number of the Administrative Agent or Municipal Housing Liaison, as appropriate, where complaints of excess rent can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (f) Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund or other appropriate municipal fund approved by the New Jersey Department of Community Affairs (DCA);

- (g) Establishing a rent-to-equity program;
 - (h) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering affordability controls; and
 - (i) Providing annual reports to COAH as required.
- (7) The Administrative Agent or the Municipal Housing Liaison as appropriate shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

SECTION 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to that subsection, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

SECTION 3. This ordinance shall take effect immediately upon final adoption, publication and the filing of a copy of said ordinance with the Mercer County Planning Board, as provided by law.

Introduced: _____

Advertised: _____

Public Hearing: _____

Adoption: _____

Advertised: _____

Attest:

Approved:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor