

ORDINANCE NO. 2026-02

AN ORDINANCE ESTABLISHING SECTION 2640 OF THE BOROUGH OF FLEMINGTON'S ZONING ORDINANCE ENTITLED "ADMINISTRATION AND ENFORCEMENT"

WHEREAS, the Borough's Zoning Ordinance, Chapter 26, reflects the Borough's desired control of parcels within the municipality; and

WHEREAS, it appears that the Borough's zoning ordinance does not contain specificity on how Borough personnel are to enforce and administer the zoning code to ensure compliance within the Borough; and

WHEREAS, Section 2640 of the zoning ordinance is reserved for future ordinance codification; and

WHEREAS, the following changes have been cleared by the administration and the Borough attorneys;

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Flemington, County of Hunterdon, State of New Jersey, that Chapter 26 entitled "Zoning" is hereby amended as follows:

SECTION I.

Section 2640 is hereby created and entitled "Administration and Enforcement" and shall read as follows:

§ 2640.1 Enforcement.

A. The provisions of this chapter shall be administered and enforced by the Zoning Officer, Police Department, or Code Enforcement Official of the Borough. In no case shall a permit be granted for the construction, alteration or use of any building where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter. It shall be the duty of the Zoning Officer or their duly authorized assistant to cause any building, plans or premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provision of this chapter.

B. Zoning violations. Each of the following types, categories or classes of cases may be prosecuted by the Borough Prosecutor or the Borough Attorney in the appropriate forum by the filing therewith of a summons by the Zoning Officer or Engineer of the Borough or their designee:

- (1) Violation of any site plan or subdivision approval granted by the Borough's Joint Planning/Zoning Board ("Board"), including the failure or refusal to comply with any

details set forth in the approved plans or any condition or conditions of approval as set forth in the approving Board's resolution;

- (2) Violation of any "D" variance approval granted by the Board;
- (3) Violation of any "C" variance granted by the Board;
- (4) Violation of any easement granted to or running in favor of the Borough of Flemington or to any other municipal entity, body or board;
- (5) Violation of any court order (including a consent order) issued by a judge of any court of competent jurisdiction relative to any land use or land development case or controversy;
- (6) Violation of any zoning agreement entered into between the Borough and any property owner;
- (7) Violation of any agreement between the Borough and a named defendant which was entered into to resolve a Municipal Court zoning case; or
- (8) Violation of any requirement of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., relative to any land within the Borough of Flemington.

§ 2640.2 Zoning Permit.

Zoning permits shall hereafter be requested from the Zoning Officer prior to construction, erection or alteration of any structure or part of a structure or use of a structure or land. All requests for zoning permits shall be made in writing by the owner or his authorized agent and shall include a statement of the use or intended use of the building or structure or land and shall be accompanied by a plan of the plat showing thereon the exact size, shape and location of all proposed structures and all existing structures and such other information as may be necessary to provide for the enforcement of this chapter.

§ 2640.3 Certificate(s) of Occupancy.

It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed in use or ownership, converted or enlarged wholly or partly until a certificate of occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this chapter. Such certificates of occupancy shall be granted or denied within ten (10) days from the date that a written application is filed with the Zoning Officer and Construction Official.

§ 2640.4 Violations and Penalties.

The owner or agent of a building or premises where and upon which a violation of any provision of these regulations shall have been committed or shall exist, or the lessee or tenant of any part of the building or premises in which such violation shall have been committed or shall exist, or the agent, architect, building contractor or any other person who shall commit, take part or assist in any such violation or who shall maintain any building or premises in which any violation of this chapter shall exist, shall for each and every violation, after plea, trial, and/or conviction by the Municipal Court Judge, be fined not exceeding \$500 or imprisoned for a term not to exceed

ninety (90) days, or both. For each and every day that a violation is permitted or suffered to exist, a separate offense shall be construed to have been perpetrated.

§ 2640.5 Injunctive Relief.

In case any development is undertaken, occupied or used in violation of this chapter or any rule, regulation or order made under the authority of this chapter, or in case such violation is threatened, the Zoning Officer, in his own official behalf or on behalf of the municipality or any municipal agency or any interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such violation or to restrain, correct or abate such violation or to prevent any illegal act, conduct, business, occupancy or use in or about the premises that are the subject of the development; provided that no such action or proceeding shall be instituted by the Zoning Officer in any court other than the Municipal Court, except in case of emergency, unless the governing body shall first have authorized the same.

§ 2640.6 Records.

The Zoning Officer shall maintain in this office a record of all development permits and development certificates of occupancy and all actions, proceedings or complaints taken, instituted or filed by him.

SECTION II.

If any part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

SECTION III.

Should any section, paragraph, sentence, or clause of this ordinance be declared unconstitutional or invalid for any reasons, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect and, to this end, the provisions of this ordinance are hereby declared severable.

SECTION IV.

The Clerk shall cause a copy of this ordinance as adopted to be filed with the County Planning Board pursuant to N.J.S.A. 40:55D-16 and a summary published as required by N.J.S.A. 40:49-2.1.

SECTION V.

Prior to adoption, the Clerk shall forward a copy of this ordinance for a consistency review by the Borough Land Use Board pursuant to N.J.S.A. 40:55D-26.

SECTION VI.

All Borough of Flemington ordinances or parts of ordinance inconsistent with enactment are hereby repealed to the extent of such inconsistency.

SECTION VII.

This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law.

I, Carla Conner, Borough Clerk, hereby certify that the Ordinance #2026-02 published herewith was introduced on first reading at a meeting of the governing body of the Borough of Flemington, County of Hunterdon, held January 26, 2026. The Ordinance will be further considered for final adoption after public hearing, at a meeting of the governing body to be held in the Flemington Borough Hall, 38 Park Avenue, Flemington, NJ 08822, on February 23, 2026 at 7:00 p.m. Copies of this ordinance shall be made available in the Municipal Clerk's office to members of the general public who shall request same.

Carla Conner
Borough Clerk