

TOWNSHIP OF SADDLE BROOK
COUNTY OF BERGEN, NEW JERSEY

ORDINANCE NO. 1703-21

AN ORDINANCE AMENDING CHAPTER 48 OF THE TOWNSHIP CODE OF THE
TOWNSHIP OF SADDLE BROOK ENTITLED, "AFFORDABLE HOUSING"

WHEREAS, the Township Council of the Township of Saddle Brook recognize the need to amend Chapter 48, "Affordable Housing", of the Township Code of the Township of Saddle Brook so that the same conforms with the settlement involving the affordable housing litigation presently in the Superior Court of Bergen County;

WHEREAS, Chapter 48 of the Township Code of the Township of Saddle Brook is hereby amended as follows:

Article I

Mandatory Set-Aside and Development Fees

§ 48-1 Purpose.

[Replace Existing §48-1 With The Following]

This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the purpose of providing very-low-, low- and moderate-income housing in accordance with a Court-approved spending plan.

§ 48-2 Basic requirements - Court approval required

[Replace Existing §48-2 With The Following]

A. This article shall not be effective unless and until approved by the Superior Court in connection with the Township of Saddle Brook's declaratory judgment action concerning its third round affordable housing obligations, Docket No. BER-L-6297-15.

B. The Township of Saddle Brook shall not spend development fees collected pursuant to this article unless and until the Superior Court has approved a spending plan for such fees.

§ 48-4 Residential Development Fees.

[Replace Existing § 48-4A With The Following:]

§ 48-4 Mandatory Set-Aside and Residential Development Fees.

A. Mandatory Set-Aside

Within all districts, residential developers, including developers of mixed-use projects, for all new multifamily residential developments of five (5) units or more shall set aside fifteen percent (15%) of rental developments and twenty percent (20%) of for-sale developments for affordable housing. The provisions of this ordinance shall not apply to residential expansions, additions, renovations, replacements, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more.

At least 50% of the affordable units must be affordable to low-income households, including the required 13% very low-income units, and all affordable units must include the required bedroom distribution, be governed by controls on affordability, and be affirmatively marketed in conformance with UHAC.

The mandatory set-aside requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance or adoption of a Redevelopment Plan or any other approval or relief.

No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

§ 48-7 Affordable Housing Trust Fund.

[Replace Existing Sections C and D With The Following:]

*C. An Affordable Housing Trust Fund Account has been opened with Columbia Bank. In the event of a failure by the Township of Saddle Brook to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (*aff'd* 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Saddle Brook, or, if not practicable, then within the County. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant*

condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

§ 48-7.1 Use of funds.

[Replace Section A With The Following]

A. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the Township's Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Saddle Brook's 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; regional housing partnership programs; conversion of existing nonresidential 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 the Court and specified in the approved spending plan.

§ 48-7.2 Monitoring.

[Add The Following]

On the first anniversary of the execution of the Settlement Agreement (11/21/18), and on every anniversary of that date thereafter through the end of the period of protection from litigation, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

On the first anniversary of the execution of the Settlement Agreement, and every anniversary thereafter through the end of the Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided by the Settlement Agreement. The Township agrees to comply with those provisions as follows:

- i. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
- ii. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

§ 48-7.3 Ongoing collection of fees.

[Replace This Section In Its Entirety With The Following]

A. The ability of the Township of Saddle Brook to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its judgment of compliance and shall continue thereafter so long as the Township of Saddle Brook has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of

its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Township of Saddle Brook is not pursuing authorization to impose and collect development fees after the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its 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 (N.J.S.A. 52:27D-320).

C. After the expiration of the judgement of compliance, if the Township does not pursue or obtain continued authorization, the Township of Saddle Brook shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

Article II

Municipal Housing Liaison

[Replace This Section In Its Entirety With The Following]

§ 48-8 Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of the Township of Saddle Brook's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

§ 48-9 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE AGENT

The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Township of Saddle Brook to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

MUNICIPAL HOUSING LIAISON

The employee charged by the Mayor with the responsibility for oversight and administration of the affordable housing program for the Township of Saddle Brook.

§ 48-10 Establishment of Municipal Housing Liaison position; compensation; powers and duties.

A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Township of Saddle Brook.

B. The Municipal Housing Liaison shall be appointed by the Mayor and may be a full- or part-time municipal employee.

C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Saddle Brook, including the following responsibilities which may not be contracted out:

- (1) Serving as the Township of Saddle Brook'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 Township of Saddle Brook's Fair Share Plan;
- (3) Compiling, verifying, and submitting annual reports as required by the Court;
- (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;
- (6) Implementing the Township's Affirmative Marketing Plan and supervising all Administrative Agents.
- (7) If applicable, serving as the administrative agent for some or all of the restricted units in the Township of Saddle Brook as described in Subsection F below.

D. Subject to approval of the Court, the Township of Saddle Brook may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of the Township of Saddle Brook. If the Township of Saddle Brook 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.

E. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison.

F. Administrative powers and duties of the Administrative Agent assigned to the Municipal Housing Liaison provided the Municipal Housing Liaison is experienced and qualified as an Administrative Agent

- (1) Affirmative marketing:
 - a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the Township of Saddle Brook 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, as applicable, 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.;
- e) 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; and
- f) Employing the random selection process as provided in the affirmative marketing plan of the Township of Saddle Brook when referring households for certification to affordable units.
- g) All Administrative Agents must notify the entities listed in the Settlement Agreement when units are available.

(3) Affordability controls:

- a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of 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 that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or 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 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. The review process must ensure that the loan amount will not violate the terms of the Affordable Housing Ordinance
- 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) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent 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;

- e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund;
- f) Establishing a rent-to-equity program;
- g) Creating and publishing a written operating manual, as approved by the Court, setting forth procedures for administering such affordability controls.

(7) Records Retention

- (8) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

Article III

Affordable Housing Requirements

§48-11 Purpose.

- A. The purpose of this Chapter is to provide for and regulate affordable housing in the Township of Saddle Brook. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income individuals and households shall occupy these units.
- B. The Township of Saddle Brook Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Township Council. The Fair Share Plan describes the ways the Township of Saddle Brook shall address its fair share for low- and moderate-income housing as determined by the New Jersey Superior Court and documented in the Housing Element.
- C. This Ordinance implements and incorporates the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as it may be amended and supplemented.

§48-12 Definitions.

The following terms when used in this Chapter shall have the meanings given herein:

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

ADAPTABLE

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT

The entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent level that is within the means of a low or moderate income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as it may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as it may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the

U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ALTERNATIVE LIVING ARRANGEMENTS

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

COURT

The Superior Court of New Jersey, Law Division, Bergen County.

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

A housing unit with health and safety code violations that requires 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.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use 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 N.J.S.A. 40:55D-1, et seq.

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

LOW INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

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 and load bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MULTIFAMILY UNIT

A structure containing five or more dwelling units.

NON-EXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses 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.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

REHABILITATION

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

RENT

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. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY-LOW INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

VERY-LOW INCOME UNIT

A restricted unit that is affordable to a very-low income household.

WEATHERIZATION

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 purposes of a rehabilitation program.

§48-13 Applicability.

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the

Township of Saddle Brook pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

- B. Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently anticipated future developments that will provide low- and moderate-income housing units.

§48-14 Rehabilitation Program.

- A. Saddle Brook will continue to participate in the Bergen County Home Improvement Program, which is designed to renovate deficient housing units occupied by 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.
- B. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period), which will be enforced with a lien.
- C. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (1) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (2) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (3) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.
 - (4) Applicant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC.

§48-15 Alternative living arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or the Court.
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

- B. 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, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or the Court.

The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§48-16 Inclusionary zoning.

To implement the fair share plan in a manner consistent with the terms of the Settlement Agreement executed on November 21, 2018, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be permitted consistent with the provisions of the Township of Saddle Brook’s Housing Plan Element and Fair Share Plan, and the terms of the settlement agreement:

- A. Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- B. Fractional units.

Inclusionary developments that result in an affordable housing obligation that is fractional shall round up and provide the additional affordable unit.

- C. New construction.

(1) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- a. The fair share obligation 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. At least 13% of all restricted units shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income

units shall be counted as part of the required number of low income units within the development.

- b. At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- c. A maximum of 25% of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be non-restricted.
- d. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units.
- e. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - 1) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - 2) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - 3) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - 4) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- f. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. The Township shall not be permitted to claim credit to satisfy its obligations under the Settlement Agreement for age-restricted units that exceed 25% of all units developed.

(2) Accessibility Requirements

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- b. All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - 1) An adaptable toilet and bathing facility on the first floor; and
 - 2) An adaptable kitchen on the first floor; and

- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
- 5) If not all of the foregoing requirements in (b)(1) through (b)(4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (b)(1) through (b)(4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- 6) An accessible entranceway as set forth at 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 Saddle Brook has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - ii. To this end, the builder of restricted units shall deposit funds within the Township of Saddle Brook's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - iii. The funds deposited under paragraph (f)(2) above shall be used by the Township of Saddle Brook 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.
 - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Saddle Brook for the conversion of adaptable to accessible entrances.
 - v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet 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 Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
 - vi. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements.

Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

(3) Design.

- a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

(4) Maximum Rents and Sales Prices.

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- c. 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, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low-income housing requirement.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - 3) A two-bedroom unit shall be affordable to a three-person household;

- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - 5) A four-bedroom unit shall be affordable to a six-person household.
- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
- 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - 3) A two-bedroom unit shall be affordable to a two-person household or two one-person households.
- g. 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% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as it may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as it may be amended and supplemented.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as it may be amended and supplemented.
- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
- k. Regional income limits shall be established for the region that the Township is located within (i.e. Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within

the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

1. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

D. Utilities.

- (1) Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- (2) Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

E. Occupancy standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sexes with separate bedrooms;
- (3) Provide separate bedrooms for parents and children; and
- (4) Prevent more than two persons from occupying a single bedroom.

F. Control periods for restricted ownership units and enforcement measures.

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.5, as it may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Saddle Brook takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) 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 non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating 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.
- (5) 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 restricted ownership units.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as it may be amended and supplemented.

G. N. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as it may be amended and supplemented, including:

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

- (3) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- (4) 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 those that render the unit suitable for a larger household or the addition of a bathroom. See Article III Section Q.

H. Buyer income eligibility.

- (1) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as it may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income, and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- (2) Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit moderate-income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- (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.
- (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, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

I. 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 First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

J. Q. Capital improvements to ownership units.

- (1) 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 capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- (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. 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, 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 owner 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.

K. Control periods for restricted units.

- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.11, as it 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 30 years, until Saddle Brook takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- (2) 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, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (3) 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 of other voluntary transfer of the ownership of the unit; or
- c. The entry and enforcement of any judgement of foreclosure on the property containing the unit.

L. Projects financed with Low-Income Housing Tax Credits shall have restriction requirements with an extended compliance period - a 30 year compliance period and a 15 year extended use period.. Rent restrictions for rental units; leases.

- (1) A written lease shall be required for all restricted rental units 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 provided to the Administrative Agent.
- (2) No additional fees 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.
- (3) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- (4) Rent control or other pricing restrictions on affordable rental units is prohibited.

M. Tenant income eligibility.

- (1) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as it 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% of median income.
 - b. Low income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - c. Moderate income rental units shall be reserved for households with a gross household income less than 80% of median income.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as it 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% (40% 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% (40% 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 the circumstances in 1(a) through 2(e) above with the Administrative Agent, who shall counsel the household on budgeting.

Article IV

§ 48-17 Affirmative marketing requirements.

- A. The Township of Saddle Brook shall adopt by resolution an affirmative marketing plan, subject to the approval of the Court that is compliant with N.J.A.C. 5:80-25.15, as it may be amended and supplemented.
- B. 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, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children 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. The affirmative marketing plan shall require the notification of the FSHC, New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen Urban League, the Bergen County Housing Coalition, the Supportive Housing Association of New Jersey, and the New Jersey Housing Resource Center of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.

- D. The Township has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The administrative agent designated by the Township shall implement the affirmative marketing plan to assure the affirmative marketing of all affordable units.
- E. In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the affirmative marketing plan, the administrative agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Bergen County Administration Building, the Passaic County Administration Building, Hudson County Administration Building, County of Sussex, Saddle Brook Free Public Library, Sussex County Main Library, Hudson County Library, Johnson Free Public Library (Hackensack), the Danforth Memorial Library (Paterson), the Saddle Brook Municipal Building and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Township's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

Article V

§ 48-18 Enforcement of affordable housing regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the Township may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

- (1) The Township 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 adjudged 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:
 - a. A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, 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. In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Saddle Brook Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - b. In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- (2) The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such 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. The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the low- and moderate-income 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 Township, including attorney's fees. The violating owner shall have his right to possession terminated as well as his 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- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township 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 Township 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 Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township 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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow

shall belong to and shall be paid to the Township, whether such balance shall be paid to the owner or forfeited to the Township.

- c. Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same 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 low- and moderate-income 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 low- and moderate-income 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 which would have been realized from an actual sale as previously described.
- e. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Township, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- f. The 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.

§ 48-19 Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this chapter shall be filed in writing with the Executive Director of COAH or with the Superior Court, Bergen County Vicinage.

Article VI

All other parts, portions and provisions of the Township Code of the Township of Saddle Brook, be and the same, are hereby ratified and confirmed, except where inconsistent with the

terms thereof. In the event of any such inconsistency, the terms of this Ordinance shall be deemed to govern.

Article VII

The terms of this ordinance are hereby declared to be severable; should any part, portion or provision hereof be declared invalid or unconstitutional, said finding shall not affect any other part, portion or provision thereof.

Article VIII

This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

APPROVED:
TOWNSHIP OF SADDLE BROOK

Peter LoDico, Township Clerk

Karen D'Arminio, Council President

Adopted:

Robert White, Mayor
Mayor