

**BOROUGH OF RIVER EDGE  
ORDINANCE #20-17**

**AN ORDINANCE AMENDING CHAPTER 50, ENTITLED “AFFORDABLE HOUSING REGULATIONS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS.**

**WHEREAS**, Ordinance No. 20-9 creating Chapter 50, Affordable Housing Regulations, of the Borough of River Edge Code was adopted by the Borough Council on June 22, 2020; and

**WHEREAS**, Chapter 50, Affordable Housing Regulations, of the Borough Code is being amended to include “mandatory set-aside” language in accordance with the Borough’s Settlement Agreement with Fair Share Housing Center dated June 24, 2019; and

**WHEREAS**, this Ordinance Amendment is a necessary in order for the Borough to receive a judgement of compliance and repose from the Superior Court with respect to the Borough’s Third Round affordable housing obligations.

**NOW, THEREFORE**, be it ordained by the Borough Council of the Borough of River Edge, Bergen County, New Jersey, as follows:

**SECTION 1.** Chapter 50, entitled “Affordable Housing Regulations,” of the Code of the Borough of River Edge is hereby amended to read as follows:

**ARTICLE I AFFORDABLE HOUSING REGULATIONS**

**§ 50.1 Purpose.**

This Chapter is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that only qualified low- and moderate-income households shall occupy these units consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Chapter shall apply except where inconsistent with applicable law.

**§ 50.2 Applicability.**

- A. The provisions of this Chapter shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of River Edge pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- B. This Chapter shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

**§50.3 Monitoring and Reporting Requirements.**

The Borough of River Edge shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

- A. Trust fund activity. Beginning one year after the entry of the Borough’s Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of its Affordable Housing 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 (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds

collected and the amount and purpose for which any funds have been expended.

- B. Affordable housing activity. Beginning one year after the entry of the Borough's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough 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 COAH, or any other forms endorsed by the Court Appointed Special Master and FSHC.
- C. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during its ten-year repose period. The Borough will comply with those provisions as follows:
1. For the midpoint realistic opportunity review due on July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Borough, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the 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.
  2. 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 the entry of the Borough's Judgment of Compliance and Repose, and every third year thereafter, the Borough 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 Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very low income housing obligation under the terms of this settlement.
  3. In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the State level.

#### **§50.4 Definitions.**

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

*"Accessory apartment"* shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

*"Adaptable"* shall mean constructed in compliance with the technical design standards of the Barrier Free Sub code, N.J.A.C. 5:23-7.

*"Administrative agent"* shall mean the entity responsible for the administration of affordable units in accordance with this Article, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

*"Affirmative marketing"* shall mean 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"* shall mean the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

*"Affordable"* shall mean, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; 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 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 may be amended and supplemented.

*"Affordable development"* shall mean a housing development all or a portion of which consists of restricted units.

*"Affordable housing development"* shall mean a development included in the "Housing Plan Element and Fair Share Plan", and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.

*"Affordable housing program(s)"* shall mean any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

*"Affordable unit"* shall mean a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

*"Agency"* shall mean 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"* shall mean 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 where the unit is situated are sixty-two (62) years or older; or 2) at least eighty (80%) percent of the units are occupied by one person that is fifty-five (55) years 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.

*"Assisted living residence"* shall mean a facility 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 (4) or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

*"Certified household"* shall mean a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

*"COAH"* shall mean the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

*"DCA"* shall mean the State of New Jersey Department of Community Affairs.

*"Deficient housing unit"* shall mean a housing unit with health and safety code violations that require 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"* shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

*"Development"* shall mean the division of a parcel of land into two (2) 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.

*"Inclusionary development"* shall mean a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

*"Low-income household"* shall mean a household with a total gross annual household income equal to fifty (50%) percent or less of the median household income.

*"Low-income unit"* shall mean a restricted unit that is affordable to a low-income household.

*"Major system"* shall mean the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

*"Market-rate units"* shall mean housing not restricted to low- and moderate-income households that may sell or rent at any price.

*“Median income”* shall mean the median income by household size for the applicable county, as adopted annually by COAH.

*“Moderate-income household”* shall mean a household with a total gross annual household income in excess of fifty (50%) percent but less than eighty (80%) percent of the median household income.

*“Moderate-income unit”* shall mean a restricted unit that is affordable to a moderate-income household.

*“Non-exempt sale”* shall mean 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”* shall mean 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”* shall mean the maximum housing value in each housing region affordable to a four-person household with an income at eighty (80%) percent of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

*“Rehabilitation”* shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Sub code, N.J.A.C. 5:23-6.

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

*“UHAC”* shall mean the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

*“Very low-income household”* shall mean a household with a total gross annual household income equal to thirty (30%) percent or less of the median household income.

*“Very low-income unit”* shall mean a restricted unit that is affordable to a very low-income household.

*“Weatherization”* shall mean 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 rehabilitation.

## **§50.5 Mandatory Affordable Housing Set-Aside Requirements.**

- A. Purpose. This section is intended to ensure that any site or development that benefits from a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Municipality or a Borough land use board that results in five (5) or more new multi-family or single-family attached dwelling units produces affordable housing at a set-aside rate of twenty percent (20%) affordable for-sale units and fifteen percent (15%) affordable rental units. This section shall apply except where inconsistent with applicable law or Court order.
- B. Mandatory Set-Aside Requirement.
  1. Any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, that is approved and contains five (5) or more new dwelling units as a result of a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Municipality or a Borough land use board shall be required to set aside a minimum percentage of units for affordable housing.
  2. For inclusionary projects in which the low and moderate units are to be offered for sale, the minimum set-aside percentage shall be twenty percent (20%); for projects in which the low and moderate income units are to be offered for rent, the minimum set-aside percentage shall be fifteen percent (15%). Where the set-aside percentage results in a fractional unit, the total set-aside requirement shall be rounded upwards to the next whole number, regardless of the fractional amount.

3. A minimum of thirteen percent (13%) of any affordable units developed through the Borough's mandatory set-aside requirements shall be very-low income qualified units
4. Nothing in this section precludes the Municipality or a Borough land use board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this section consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
5. This requirement does not create any entitlement for a property owner or applicant for subdivision or site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or rehabilitation plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
6. This requirement does not apply to any sites or specific zones for which higher set-aside standards have been or will be established, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or rehabilitation plan.
7. If the Municipality's Settlement Agreement with Fair Share Housing Center ("FSHC") dated June 24, 2019 or the Municipality's 2020 Housing Element and Fair Share Plan, establishes set-aside standards for any specific sites or zones which are different from the set-aside standards set forth in this section, the set-asides established for those sites or zones in the Settlement Agreement or Housing Element and Fair Share Plan shall govern.
8. Furthermore, this requirement shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings by five (5) or more.
9. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or greater.
10. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
11. All affordable units to be produced pursuant to this section shall comply with the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.), as may be amended from time to time, and any applicable Order of the Court, including a Judgment of Compliance and Repose Order.

#### **§50.6 Rehabilitation Program.**

- A. The Borough of River Edge and Fair Share Housing Center have agreed that the Borough's Round 3 (1999-2025) indigenous need Rehabilitation Obligation is six (6) units. The Borough will work with Bergen County or hire a separate entity to rehabilitate units in the Borough to address the Borough's Rehabilitation Obligation. Any such rehabilitation programs will update and 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.
  1. All rehabilitated rental and owner-occupied units shall remain affordable to low and moderate-income households for a period of ten (10) years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
  2. The Borough of River Edge shall dedicate an average of at least eighteen thousand dollars (\$18,000) for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
  3. Units in the rehabilitation programs shall be exempt from N.J.A.C. 5:93-9 and UHAC requirements, but shall be administered in accordance with the following:
    - a. 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.
    - b. 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.

- c. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
- d. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**§ 50.7 Phasing Schedule for Inclusionary Development.**

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

**§ 50.8 New Construction.**

**A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**

1. 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 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development. At least 50 percent of the very low income units must be available to families.
2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
3. A maximum of 25 percent of the Borough's obligation may be met with age-restricted units. At least half of all affordable units in the Borough's Fair Share Plan shall be available to families.
4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.
5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - b. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
  - c. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
  - d. The remaining units may be allocated among two and three-bedroom units at the discretion of the developer.
6. 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.

**B. Accessibility Requirements:**

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub Code, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - a. An adaptable toilet and bathing facility on the first floor; and
  - b. An adaptable kitchen on the first floor; and
  - c. An interior accessible route of travel on the first floor; and
  - d. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - e. If all of the foregoing requirements in 2.(a) through 2.(d) cannot 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 2.(a) through 2.(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
  - f. 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 Sub Code, N.J.A.C. 5:23-7, or evidence that River Edge has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
    - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - (2) To this end, the builder of restricted units shall deposit funds within the Borough of River Edge's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
    - (3) The funds deposited under paragraph f (2) above shall be used by the Borough of River Edge 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.
    - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of River Edge for the conversion of adaptable to accessible entrances.
    - (5) 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 Sub Code, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - g. 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 Sub Code, N.J.A.C. 5:23-7.

C. Design:

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

D. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
3. 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 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent 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.
5. 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:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household;
  - c. A two-bedroom unit shall be affordable to a three-person household;
  - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - e. A four-bedroom unit shall be affordable to a six-person household.
6. 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:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
  - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. 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 percent 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 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as 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 may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent 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 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 may be amended and supplemented.

9. Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
  - a. The income limit for a moderate-income unit for a household of four shall be 80 percent of the HUD determination of the median income for COAH Region 1 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 median income for COAH Region 1 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 HUD determination of the median income for COAH Region 1 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 the previous year.
  - b. The income limits are based on carrying out the process in paragraph (a) based on HUD determination of median income for the current Fiscal Year and shall be utilized by the Borough until new income limits are available.
10. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
  - a. 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 determined pursuant to paragraph (9). In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
  - b. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northern New Jersey Area, upon its publication for the prior calendar year. 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.

#### **§ 50.9 Utilities.**

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. 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 the NJDCA for its Section 8 program.

#### **§ 50.10 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:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

#### **§ 5.11 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as 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 thirty (30) years, until the Borough of River Edge takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.
- E. 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.
- F. 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 may be amended and supplemented.

**§ 5.12 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 may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- B. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. 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, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
- D. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.

**§ 5.13 Buyer Income Eligibility.**

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as 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 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

- B. 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 percent of the household's eligible monthly income.

**§ 5.14 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
- B. 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 percent of the maximum allowable resale price of the unit, as such price is determined by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

**§ 5-15 Capital Improvements to Ownership Units.**

- A. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 add 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.
- B. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.

**§ 5-16 Control Periods for Restricted Rental Units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as 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 the Borough of River Edge takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. 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. A copy of the filed document shall be provided to the Borough's Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**§ 5-17 Rent Restrictions for Rental Units; Leases.**

- A. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- B. 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 Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- C. 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 Developer and/or Landlord or to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer. If the fees are paid to the Borough's Administrative Agent or an Administrative Agent appointed by a particular developer, they are to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**§ 5-18 Tenant Income Eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- B. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  5. 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.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in a.1. through b.5. above with the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

## **ARTICLE II            MUNICIPAL HOUSING LIAISON.**

### **§ 5-19 Municipal Housing Liaison**

- A. The position of Municipal Housing Liaison (MHL) for the Borough of River Edge is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of River Edge.
  2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
  3. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
  4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of River Edge, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
    - a. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
    - b. The implementation of the Affirmative Marketing Plan and affordability controls;
    - c. When applicable, supervising any contracting Administrative Agent;
    - d. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
    - e. Compiling, verifying and submitting annual reports as required;
    - f. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
    - g. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
- B. Subject to the approval of the Court, the Borough of River Edge shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and may be subject to approval of the Court appointed Special Master or the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

**ARTICLE III        ADMINSTRATIVE AGENT**

**§ 5-20 Administrative Agent.**

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Borough or reporting to a specific individual developer. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Borough Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80- 26.14, 16 and 18 thereof, which includes:

A. Affirmative Marketing:

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of River Edge and the provisions of N.J.A.C. 5:80-26.15; and
2. 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.

B. Household Certification:

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. 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;
3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
4. 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.;
5. 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;
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of River Edge when referring households for certification to affordable units; and
7. Notifying the following entities of the availability of affordable housing units in the Borough of River Edge: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County Branch of the NAACP, Senior Citizens United Community Services (S.C.U.C.S.), and the Supportive Housing Association.

C. Affordability Controls:

1. 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;
2. 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;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or Bergen County Clerk's office after the termination of the affordability controls for each restricted unit;

4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
2. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
2. 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 depreciated cost of central air conditioning systems;
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the municipality a list 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;
2. 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 Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer;
3. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
4. 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;
5. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Borough's Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

2. The Borough's Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance. The Borough's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
3. The Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

#### **ARTICLE IV           AFFIRMATIVE MARKETING REQUIREMENTS**

##### **§ 5-21 Affirmative Marketing Program.**

- A. The Borough of River Edge shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as 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 affordable housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan also is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1 comprised of Bergen, Passaic and Hudson Counties.
- D. The Administrative Agent designated by the Borough of River Edge shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- 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 Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four (4) months prior to the expected date of occupancy.
- H. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by River Edge Borough.

#### **ARTICLE V           ENFORCEMENT OF AFFORDABLE HOUSING REGULATIONS**

##### **§ 5-22 Enforcement**

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality 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, recoupment 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 municipality 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 municipality 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 \$2,000.00 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;
    - 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 into the Borough of Oradell Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - c. 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 Borough 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 municipality, 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 municipality, 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 municipality 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 municipality 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 municipality 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 municipality 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 municipality 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 municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
    - c. Foreclosure by the municipality 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 municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, 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.

**ARTICLE VI            AFFORDABLE HOUSING DEVELOPMENT FEES.**

**§ 5-23 Purpose.**

- A. In Holmdel Builder's Ass'n v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council On Affordable Housing's ("COAH's") adoption of rules.
- B. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- C. The purpose of this section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing "low" and "moderate" income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

**§ 5-24 When Effective, Authority to Spend Fees.**

- A. Pursuant to N.J.A.C. 5:96-5.1, the ability to impose, collect and spend development fees is predicated on the Borough of River Edge's participation in COAH's substantive certification process or as approved by the courts.
- B. The Borough of River Edge shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

**§ 5-25 Definitions.**

The following terms, as used in this Article, shall have the following meanings:

*"Affordable housing development"* shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.

“COAH” or the “Council” shall mean the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

“Development fee” shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

“Developer” shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

## **§ 5-26 Residential Development Fees.**

### **A. Imposed Fees:**

1. In accordance with N.J.A.C. 5:97-8.3 (c) of COAH's "Substantive Rules," all new development of principal and accessory residential buildings within the Borough of River Edge, not exempt from the collection of development fees in accordance with the provisions specified in Subsection 23-74.4c. of this ordinance hereinbelow, shall pay a fee to River Edge Borough equal to one and one-half (1.5%) percent of the equalized assessed value of the residential construction, provided no increased density is permitted.
2. Notwithstanding the provisions of subsection 23-74.4a. hereinabove, if a "d" variance is granted pursuant to N.J.S.A. 40:55D-70 d.(5) for more residential units than otherwise permitted by right under the existing zoning, then the additional residential units realized as a result of the "d" variance approval shall pay a bonus development fee to River Edge Borough equal to six (6.0%) percent of the equalized assessed value of the residential development, rather than the one and one-half (1.5%) percent development fee otherwise required for the residential units permitted by right.
  - a. However, if the zoning of a site has changed during the immediate two (2) years prior to the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2) year time period. . Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units, and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.**

1. All affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from paying development fees. All other forms of new construction shall be subject to development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of a development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or construction permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that building permits are issued.

3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded to add one or more additional dwelling units, if the expansion is not otherwise exempt from the development fee requirement. It is the intention of this Chapter that expansions to residential structures which do not add dwelling units are exempt from development fees. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster and LEED certified green buildings shall be exempt from paying a development fee.
5. No development fee shall be collected for the construction of an "accessory structure" which is not a "building" as these terms are defined in the River Edge Borough "Land Development" Ordinance.

**§ 5-27 Nonresidential Development.**

**A. Imposed Fees:**

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees also shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half (2 1/2%) percent shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final Certificate of Occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero (0).

**B. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.**

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.
2. The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form and listed below. Any exemption claimed by a developer shall be substantiated by that developer.
  - a. All nonresidential construction of buildings or structures on property used by houses of worship, and property used for educational purposes which is tax-exempt pursuant to R.S.54:4-3.6, provided that the property continues to maintain its tax-exempt status under that statute for a period of at least three (3) years from the date of the Certificate of Occupancy;
  - b. Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a nonresidential development or as a stand-alone non-residential development;

- c. Any nonresidential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers and senior centers as defined in section 35 of P.L.2008, c.46 (C.40:55D-8.4), which are developed in conjunction with or funded by a non-residential developer;
  - d. Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the New Jersey State Department of Transportation; and
4. A developer of a nonresidential development exempted from the nonresidential development fee above shall be subject to it at such time the basis for the exemption set forth in this subsection no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three (3) years after that event or after the issuance of the final Certificate of Occupancy of the nonresidential development, whichever is later.
  5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of River Edge as a lien against the real property of the owner.

#### **§ 5-28 Collection Procedures.**

The Borough of River Edge shall collect development fees for affordable housing in accordance with the following:

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction Official or designated municipal official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption", to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Borough Construction Official responsible for the issuance of a building permit shall notify the Borough Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within ninety (90) days of receipt of that notice, the Borough Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development. The equalized assessed value and the required development fee shall be estimated by the Borough Tax Assessor prior to the issuance of the construction permit, with the understanding that the estimate of the equalized assessed value is not intended to establish the equalized assessed value for tax purposes.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of River Edge fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the

dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).

- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for payment the difference between the fee calculated at building permit and that determined as issuance of certificate of occupancy.
- I. Developers shall pay the remainder of the development fee to River Edge Borough at the time of the issuance of a Certificate of Occupancy.
- J. Upon tender of the remaining development fee, provided the developer is in full compliance with all other applicable laws, the Borough shall issue a final Certificate of Occupancy for the subject property.
- K. Regardless of the time of collection of the development fee, the fee shall be based upon the percentage that applies on the date that the construction permit is issued.
- L. The Construction Code Official shall forward all collected development fees to River Edge Borough's Chief Financial Officer who shall deposit such fees into the established Housing Trust Fund.
- M. Appeal of development fees.
  - 1. A developer may challenge the development fees imposed by filing a challenge with the Director of the Division of Taxation for nonresidential development and with the County Board of Taxation for residential development. Pending a review and determination by the Director or Board, as the case may be, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Director or Board, as the case may be, may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Accrued interest earned on escrowed amounts to be returned shall also be returned to the developer.
  - 2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of River Edge. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### **§ 5-29 Affordable Housing Trust Fund.**

- A. All collected development fees and any proceeds from the sale of units with extinguished controls shall be deposited by the Chief Financial Officer of the Borough of River Edge into a separate designated interest-bearing Housing Trust Fund, which shall be maintained by the Borough Chief Financial Officer.
  - 1. No money shall be expended from the Housing Trust Fund unless the expenditure conforms to the spending plan which has been approved by COAH or courts.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - 1. Recapture funds;
  - 2. Proceeds from the sale of affordable units;
  - 3. Rental income from municipally operated units;
  - 4. Payments in lieu of on-site construction of affordable units;

5. Affordable housing enforcement fines and application fees;
  6. Developer contributed funds for barrier free affordable housing pursuant to N.J.A.C. 5:97-8.5;
  7. Repayments from affordable housing program loans; and
  8. Any other funds collected in connection with the Borough's affordable housing program.
- C. Within seven (7) days from the opening of the trust fund account, the Borough of River Edge shall provide COAH or court with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH or court to permit COAH or the court to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- D. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by COAH.

**§ 5-30 Use of Funds.**

- A. Funds deposited in the Housing Trust Fund may be used for any housing activity as itemized in the spending plan and approved by COAH to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to:
1. A rehabilitation program;
  2. New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
  3. Accessory apartment, market to affordable, or regional affordable housing partnership programs;
  4. Financial assistance designed to increase affordability;
  5. Conversion of existing nonresidential buildings to create new affordable units;
  6. Acquisition and/or improvement of land to be used for affordable housing;
  7. Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of a foreclosure;
  8. Extensions or improvements of roads and infrastructure directly serving affordable housing sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
  9. Green building strategies designed to be cost-saving for low and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units, in accordance with accepted Federal or State standards or such guidance as may be provided by the New Jersey State Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
  10. Maintenance and repair of affordable housing units;
  11. Repayment of municipal bonds issued to finance low and moderate income housing activity;
  12. To defray the costs of structural parking; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;

13. Administration necessary for implementation of the Housing Plan Element and Fair Share Plan, in accordance with subsection 23-74.8g. below; and
  14. Any other activity as specified in the approved spending plan and as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9.
- B. The Borough also may request authorization for expenditure of Housing Trust Funds on emergent affordable housing mechanisms not included in the Borough's Fair Share Plan in the form of an amendment to the spending plan. In addition to the amendment to the spending plan, the Borough shall submit the following:
1. A resolution to COAH or court that includes a certification that the affordable housing opportunity addresses COAH's or court's criteria set forth in N.J.A.C. 5:97-6 and information regarding the proposed mechanism in a format to be provided by COAH or court; and
  2. An amendment to its Fair Share Plan to include the mechanism at the earlier of two (2) years after COAH's or court's approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from the plan evaluation review pursuant to N.J.A.C. 5:96-10.
- C. Funds shall not be expended to reimburse the Borough of River Edge for past housing activities.
- D. Payments in lieu of constructing affordable housing units on residential and mixed-use sites shall only be used to fund eligible affordable housing activities within the Borough.
- E. At least thirty (30%) percent of all development fees collected and interest earned shall be devoted to providing affordability assistance to low and moderate income households in affordable units included in the Housing Element and Fair Share Plan, provided and in accordance with the following:
1. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low income households.
  2. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
  3. Affordability assistance for very low income households may include buying down the cost of low or moderate income units in the third round Borough's Fair Share Plan to make them affordable to very low income households (earning thirty (30%) percent or less of median income). The use of development fees in this manner may entitle the Borough to bonus credits pursuant to N.J.A.C. 5:97-3.7.
  4. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- F. The Borough of River Edge may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18, subject to COAH's approval.
- G. No more than twenty (20%) percent of development fee revenues collected in any given year from the development fees may be expended on administration, including, but not limited to, the salaries and benefits for River Edge Borough employees or consultant fees necessary to develop or implement a new affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.
1. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses.



2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with COAH's monitoring requirements.
3. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the Housing Trust Fund.

**§ 5-31 Monitoring.**

- A. The Borough of River Edge Municipal Housing Liaison shall coordinate with the appropriate municipal officials the completion and return to COAH of all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, and any other funds collected in connection with the Borough's housing program, and the expenditure of revenues and implementation of the plan certified by COAH.
- B. At minimum, the monitoring shall include an accounting of any Housing Trust Fund activity, identifying the source and amount of funds collected, the amount and purpose for which any funds have been expended, and the status of the spending plan regarding the remaining balance pursuant to N.J.A.C. 5:97-8.10(a)8.
- C. All monitoring reports shall be completed on forms designed by COAH.

**§ 5-32 Ongoing Collection of Development Fees and Expiration of Section.**

- A. The ability for the Borough of River Edge to impose, collect and expend development fees shall expire with its Substantive Certification unless River Edge Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for Substantive Certification, and has received COAH's approval of its Development Fee Ordinance.
- B. If the Borough of River Edge fails to renew its ability to impose and collect development fees prior to the date of expiration of Substantive Certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund.
- C. 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 (C.52:27D-320).
- D. The Borough of River Edge shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Substantive Certification, or judgment of compliance, nor shall the Borough of River Edge retroactively impose a development fee on such a development.
- E. The Borough of River Edge shall not expend development fees after the expiration of its Substantive Certification or judgment of compliance.

**§ 50-33 Appeals.**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Superior Court or other agency as provided for by law.

**SECTION 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**SECTION 3.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of River Edge, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of River Edge are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**SECTION 4.** The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

**SECTION 5.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of River Edge for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

**SECTION 6.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16.

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Thomas Papaleo, Mayor

ATTEST:

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Stephanie Evans, Borough Clerk