



Township Council

c/o Township Clerk
Teaneck, NJ 07666

Meeting: 03/26/19 01:00 PM

Department: Township Clerk

Category: Amend

DOC ID: 5241

ORDINANCE (ID # 5241)

Ordinance No. 4-2019 AN ORDINANCE REPEALING AND REPLACING ARTICLE VI “REQUIREMENTS FOR DEVELOPMENTS THAT INCREASE THE TOWNSHIP’S GROWTH SHARE OBLIGATION FOR AFFORDABLE HOUSING” OF CHAPTER 33, DEVELOPMENT REGULATIONS, OF THE CODE OF THE TOWNSHIP OF TEANECK, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS
BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #4-2019 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.

AN ORDINANCE REPEALING AND REPLACING ARTICLE VI “REQUIREMENTS FOR DEVELOPMENTS THAT INCREASE THE TOWNSHIP’S GROWTH SHARE OBLIGATION FOR AFFORDABLE HOUSING” OF CHAPTER 33, DEVELOPMENT REGULATIONS, OF THE CODE OF THE TOWNSHIP OF TEANECK, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS

BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #4-2019 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law and to provide the appropriate notices in accordance with law.

HISTORY:

02/11/19 Township Council INTRODUCED

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Mohammed Hameeduddin, Mayor
SECONDER:	James Dunleavy, Councilman
AYES:	Dunleavy, Rice, Kaplan, Pruitt, Schwartz, Katz, Hameeduddin

TOWNSHIP OF TEANECK
BERGEN COUNTY, NJ

ORDINANCE NO. 4-2019 AN ORDINANCE REPEALING AND REPLACING ARTICLE VI “REQUIREMENTS FOR DEVELOPMENTS THAT INCREASE THE TOWNSHIP’S GROWTH SHARE OBLIGATION FOR AFFORDABLE HOUSING” OF CHAPTER 33, DEVELOPMENT REGULATIONS, OF THE CODE OF THE TOWNSHIP OF TEANECK, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TEANECK THAT ORDINANCE #4-2019 PASS UPON SECOND AND FINAL READING AND THAT THE TOWNSHIP CLERK IS HEREBY AUTHORIZED AND DIRECTED TO ADVERTISE THE SAME ACCORDING TO LAW AND TO PROVIDE THE APPROPRIATE NOTICES IN ACCORDANCE WITH LAW.

WHEREAS, on July 9, 2015, the Township of Teaneck had filed and served on all interested parties a Complaint for Declaratory Judgment with respect to the Township of Teaneck’s affordable housing obligation; and

WHEREAS, the Township of Teaneck and Fair Share Housing Council, in consultation with the Court appointed Master and the Township’s Planner, entered into a proposed settlement agreement last revised December 7, 2017; and

WHEREAS, following a fairness hearing on March 28, 2018, the Court approved the aforesaid proposed settlement agreement pursuant to an Order entered on May 31, 2018; and

WHEREAS, the purpose of the within ordinance is to address the Township of Teaneck’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with *N.J.A.C. 5:80-26.1, et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that very low-, low- and moderate-income units (“affordable

units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy those units. This Ordinance shall apply, except where inconsistent with applicable law.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Teaneck, Bergen County, New Jersey, as follows:

SECTION 1. Article VI “Requirements for Developments that Increase the Township’s Growth Share Obligation for Affordable Housing” of Chapter 33, Development Regulations, of the Code of the Township of Teaneck is hereby amended to read in full as follows:

Article VI

Affordable Housing

§33-34. General Program Purposes, Procedure

A. Affordable Housing Obligation.

- (1) This Article sets forth regulations regarding the low- and moderate-income housing units in the Township of Teaneck consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing,” the Uniform Housing Affordability Controls (“UHAC”), *N.J.A.C. 5:80-26.1 et seq.*, and the Township’s constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households. In addition, this section applies requirements for very low income housing established in P.L. 2008, c.46 (the “Roberts Bill”).
- (2) This Article is intended to assure that low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Article shall apply except where inconsistent with applicable law.
- (3) The Teaneck Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at *N.J.S.A. 40:55D-1, et seq.* The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Teaneck Township shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.
- (4) This Article implements and incorporates the Fair Share Plan and addresses the requirements of the Act and regulations thereunder, as may be amended and supplemented.

- (5) The Township shall file monitoring reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by the Special Master shall be available to the public at the Teaneck Township Municipal Building, 818 Teaneck Road, Teaneck, New Jersey.

B. Definitions.

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

“Accessory apartment” means 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” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this Article, N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means 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” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household; 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” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means 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 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, and/or funded through an affordable housing trust fund.

“Agency” means 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” means 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 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 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.

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

“Assisted living residence” means 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 or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means 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.).

“Construction” means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.).

“Commissioner” means the Commissioner of Community Affairs.

“Council” means the Council on Affordable Housing, established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Developer” means 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.

“Deficient housing unit” means 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” means 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” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Equalized Assessed Value <<http://www.ecode360.com/print/12600811>>” means 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 (N.J.S.A. 54:1-35a through 54:1-35c).

“Inclusionary development” means 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 non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means 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” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH or approved by the New Jersey Superior Court.

“Mixed use development” means any development which includes both a non-residential development component and a residential development component, and shall include developments for which (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including but not limited to lots separated by a street, a river, or another geographical feature.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means 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.

“Non-residential development” means: (1) any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code promulgated to effectuate the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) the entirety of all continuing care facilities within a continuing care retirement community which is subject to the “Continuing Care Retirement Community Regulation and Financial Disclosure Act,” P.L.1986, c.103 (C.52:27D-330 et seq.).

“Non-residential development fee” means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7).

“Random selection process” means 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).

“Recreational facilities and community center” means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including but not limited to ball fields, meeting halls, and classrooms, accommodating either organized or informal activity; and “senior center” means any recreational facility or community center with activities and services oriented towards serving senior citizens.

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by/approved regional income limits.

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

“Relating to the provision of housing” shall be liberally construed to include the construction, maintenance, or operation of housing, including but not limited to the provision of services to such housing and the funding of any of the above.

“Rent” means 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” means 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.

“Spending plan” means a method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) for the purpose of meeting the housing needs of low and moderate income individuals.

“Special Master” means an expert appointed by a judge to make sure that judicial orders are followed. A master’s function is essentially investigative, compiling evidence or documents to inform some future action by the court.

“Treasurer” means the Treasurer of the State of New Jersey.

“Township” means the Township of Teaneck, Bergen County, New Jersey.

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

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

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

“Weatherization” means 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.

C. Township-wide Mandatory Set-Aside

- (1) A multi-family or single-family development providing a minimum of five (5) new housing units created through any future development application, municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan is required to include an affordable housing set-aside of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Teaneck Township to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.
- (2) This requirement shall not apply to any sites or specific zones otherwise identified in the Township's Settlement Agreement with Fair Share Housing Center dated December 7, 2017, or in the Township's Housing Element and Fair Share Plan, adopted by the Township Planning Board and endorsed by the Township Council, for which density and set-aside standards shall be governed by the specific standards set forth therein.

D. New Construction.

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- (1) Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units.

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%

- (2) Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (3) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- (4) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - (a) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 - (b) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 - (c) Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low-income households.
 - (d) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - [1.] The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - [2.] At least 30 percent of all low- and moderate-income units shall be two bedroom units;

- [3.] At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - [4.] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - (e) 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. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- (5) Accessibility Requirements:
- (a) 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 Subcode, N.J.A.C. 5:23-7.
 - (b) 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:
 - [1.] An adaptable toilet and bathing facility on the first floor;
 - [2.] An adaptable kitchen on the first floor;
 - [3.] An interior accessible route of travel on the first floor;
 - [4.] An interior accessible route of travel shall not be required between stories within an individual unit;
 - [5.] 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
 - [6.] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - [a] 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.
 - [b] To this end, the builder of restricted units shall deposit funds within the Township's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - [c] The funds deposited under subsection [b] above shall be used by the

Township for the sole purpose of making the adaptable entrance of any 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.

- [d] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of Teaneck Township.
- [e] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, *N.J.A.C. 5:23-7*, and that the cost estimate of such conversion is reasonable, payment shall be made to Teaneck Township's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- [f] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, *N.J.A.C. 5:23-7*.

(6) Maximum Rents and Sales Prices

- (a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
- (b) 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 low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 13 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.
- (d) 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 prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- (e) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:

- [1.] A studio shall be affordable to a one-person household;
 - [2.] A one-bedroom unit shall be affordable to a one and one-half person household;
 - [3.] A two-bedroom unit shall be affordable to a three-person household;
 - [4.] A three-bedroom unit shall be affordable to a four and one-half person household; and
 - [5.] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
- [1.] A studio shall be affordable to a one-person household;
 - [2.] A one-bedroom unit shall be affordable to a one and one-half person household; and
 - [3.] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 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.
- (h) 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 household size 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.
- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (j) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed

pursuant to the regulations governing low- income housing tax credits.

- (k) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

E. Condominium and Homeowners Associates Fees.

For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100 percent of the market rate fee.

§33-35. Administration

A. Municipal Housing Liaison.

- (1) The position of Municipal Housing Liaison (MHL) for Teaneck Township is established by this Article. The MHL shall be appointed by the Township Manager.
- (2) The MHL must be either a full-time or part-time employee of Teaneck Township.
- (3) The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training, as required by State law or regulation.
- (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Teaneck Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (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 Teaneck Township's Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required by the Superior Court;
 - (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 Superior Court.

B. Administrative Agent.

- (1) The Township shall designate by resolution of the Township Committee one or more Administrative Agents to administer newly constructed affordable units in accordance with State law or regulation and UHAC.
- (2) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in *N.J.A.C. 5:80-26.14, 16 and 18* thereof, which includes:
 - (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
 - (b) Affirmative Marketing and conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the township and the provisions of *N.J.A.C. 5:80-26.15*.
 - (c) Household Certification;
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - ii. 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;
 - iii. Providing written notification to each applicant as to the determination of eligibility or noneligibility;
 - iv. 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.*
 - v. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - vi. Employing the random selection process as provided in the affirmative marketing plan of the township when referring households for certification to affordable units.
 - (d) Affordability Controls;
 - i. 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;
 - ii. 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;

- iii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - iv. Communicating with lenders regarding foreclosure; and
 - v. Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10;
- (e) Records retention;
- (f) Resale and re-rental;
- i. Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
 - ii. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (g) Processing requests from unit owners; and
- i. Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - iii. Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
- i. Ensure that all restricted units are identified as affordable within the tax assessors' office and upon notification to the administrative agent of change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a writ of foreclosure on all affordable units, notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in

any other way committed to any person, other than a household duly certified to the unit by the administrative agent;

iii. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;

iv. 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

v. Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;

vi. Establishing a rent-to-equity program;

vii. Creating and publishing a written operating manual setting forth procedures for administering such affordability controls; and

viii. Proving annual reports as required.

- (i) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

C. Enforcement of Affordable Housing Regulations

(1) Upon the occurrence of a breach of any of the regulations governing the 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, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

(2) 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 against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(a) 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 found 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:

i. A fine of not more than \$500 or imprisonment for a period not to exceed 90

days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Teaneck Township Affordable Housing Trust Fund of the gross amount of rent illegally collected;

iii. In the case of an Owner who has rented his or her 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.

(b) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.

(3) Such 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 the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

(4) 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 and to the 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.

(5) 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.

- (6) 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.
- (7) 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.
- (8) 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.

D. The township may contract with or authorize a consultant, authority, government or any agency charged by the township council, which entity shall have the responsibility of administering the affordable housing program of the township. If the township contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the municipal housing liaison shall supervise the contracting administrative agent. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

E. The cost for administering the affordable housing program for the Township of Teaneck, including affirmative marketing, household certification, affordability controls, resale and rentals, communicating with unit owners and enforcement, shall be the responsibility of developers or owners of affordable housing units in accordance with the following fee schedule, as may be amended from time to time:

Annual fee for consulting, list maintenance and responding to inquiries	\$50.00 per affordable unit
Re-Sales of existing affordable housing units (payable by seller upon transfer of title)	\$1,000 per re-sale certification

Re-rentals of existing affordable housing units (payable by landlord upon occupancy of new tenant)	\$550 pre re-occupancy certification
sale of new affordable housing units	\$200 per unit setup, plus \$1000 per unit certification fee, plus \$3,000 minimum project fee (payable at least 180 days prior to the issuance of a temporary or permanent certificate of occupancy, which first occurs)
Rental of new affordable housing units	\$400 per unit setup, plus \$500 per unit certification fee, plus \$3,000 minimum project fee (payable at least 180 days prior to the issuance of a temporary or permanent certificate of occupancy, whichever first occurs)
Refinancing	\$200 to be paid by unit owner
Lien satisfaction	no charge
Other programs	The cost to provide compliance services for programs, such as accessory apartments, market to affordable, etc., are subject to the number of units and the scope of services required for each.
Additional Services	In the event additional services are requested or required to comply with

the affirmative marketing requirements, the rate for such services shall be determined prior to implementation.

Reimbursement of expenses

In addition to the foregoing fees, cost of postage, printing of notices, copying costs, and advertising shall be paid by the developer or owner.

§33-36. Affirmative Marketing within Inclusionary Development

A. Adoption of an Affirmative Marketing Plan

(1) Teaneck Township hereby adopts the within an Affirmative Marketing Plan in compliance with *N.J.A.C. 5:80-26.15*, as may be amended and supplemented.

(2) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also 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.

B. 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, Hudson, Passaic, and Sussex Counties.

C. The Administrative Agent designated by Teaneck Township shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

(1) All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the following newspapers/publications: The Record, the Suburbanite, the Jewish Standard, the Teaneck Patch, the Jewish Link and the Star Ledger.

(2) The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an as-needed basis.

(3) The advertisement will include:

(a) The street address and location of units;

- (b) Directions to the housing units;
 - (c) The size, as measured in the number of bedrooms, of the housing units;
 - (d) A range of prices/rents for the housing units;
 - (e) The maximum income permitted to qualify for the housing units
 - (f) The location of applications for the housing units;
 - (g) The business hours when interested households may obtain an application for a housing unit.
 - (h) The name of the rental manager and/or sales agent for the housing units.
- (4) All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in publications circulated within the housing region that are likely to be read by low and moderate income households, such as neighborhood oriented weekly newspaper, religious publications and organizational newsletters.
- (5) Regional radio and/or cable television station(s) will also be used.
- (6) Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program will be provided to specific employment centers within the region and to the municipal clerks of all municipalities in the region.
- (7) Applications for low and moderate income housing shall be available in several convenient locations within the Township of Teaneck, including, at a minimum, Town Hall, the Teaneck Public Library, and the developer's sales/rental office.
- The following is a listing of community contact persons and/or organizations in Teaneck that will administer the program and will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: land use administrator, County Housing Office and houses of worship.
- (8) Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Bergen, Hudson, Passaic and Sussex Counties.
- (9) Applications will be mailed to prospective applicants upon request.
- Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties the Township of Teaneck's region: Welfare or Social Service Board, Rental Assistance Office (local office of DCA), Office on Aging, libraries and housing agency or authority.
- (10) The affirmative marketing program will meet the following requirements
- (a) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
 - (b) A random selection method will be used to select occupants of low- and

moderate-income housing.

- (c) Low and moderate income households who live or work in the housing region in which the Township of Teaneck is located shall be given preference for sales and rental units constructed within the Township of Teaneck. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced.
- (d) Low and moderate income households residing or working within the Township of Teaneck shall be provided a preference for low and moderate income units created within the Township of Teaneck that respond to Teaneck's rehabilitation component.
- (e) All developers of low- and moderate-income housing units will be required to assist in the marketing of the affordable units in their respective developments.
- (f) The cost of advertising and administrating low and moderate income units shall be the responsibility of the developer and/or owner of low and moderate income housing units within the Township of Teaneck.
- (g) The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.
- (h) Households that apply for low and moderate income housing shall be screened for preliminary income eligibility by comparing their total income to the low and moderate income limits pursuant to State law and regulations. Applicants shall be notified as to their eligibility status.
- (i) Having screened applicants for preliminary income eligibility, the Township may analyze the income and household sizes of applicants to determine which applicants have the assets and/or income necessary to purchase or rent each available low or moderate income unit.
- (j) The Township shall conduct a process and interview each applicant to verify the applicant's income and household size; determine the applicant's asset availability; and review the applicant's credit history. Applicants shall be required to submit income verification for each household member 18 years or older. This process shall be utilized in establishing the final certified applicant group.
- (k) The process described in (j) through (l) above may begin no sooner than one month after the advertising program begins. Households shall be selected to proceed through the process described in (j) through (l) above through a method of random selection. Households shall be certified for low and moderate income units. The process described in (j) through (l) shall be

continued until all the low and moderate income units are occupied.

- (1) Continuing marketing activities shall undertaken after the completion of initial occupancy of sales and rental units in order to fill vacancies resulting from normal turnover which shall include:

1. Insuring a sufficient supply of income eligible applicants by continuing to implement the marketing plan throughout the housing region. At a minimum, the Township shall maintain a current pool of at least five income eligible applicants for each low and moderate income unit.

2. Contacting each income eligible applicant annually to request updated information regarding income and family size.

3. As units become available, the municipal entity shall select eligible applicants for the units until the units are occupied by low and moderate income households.

D. 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.

E. 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 Teaneck Township.

§33-37. Affordable Unit Controls and Requirements

The following general guidelines 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.

A. Occupancy Standards.

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

- (a) Provide an occupant for each bedroom;
- (b) Provide children of different sex with separate bedrooms; and
- (c) Prevent more than two persons from occupying a single bedroom.

B. Selection of Occupants of Affordable Housing Units.

- (1) The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.

- (2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of *N.J.A.C. 5:80-26 et seq.*

C. 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 Article until Teaneck Township elects to release the unit from such requirements however, and prior to such an election, 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, for at least 30 years.
- (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 administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Article, 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 Article 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 that follows the expiration of the applicable minimum control period provided under *N.J.A.C. 5:80-26.5(a)*, as may be amended and supplemented.
- (g) Deeds of all real property that include restricted ownership 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 Administrative Agent within 30 days of the receipt of a Certificate of Occupancy. The deed restriction shall be subject to the approval of the Administrative Agent and shall be substantially in the form set forth in Schedule B, annexed hereto and made part of this Article.

D. 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:

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (3) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (4) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

E. Buyer Income Eligibility.

- (1) Buyer income eligibility for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as 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.
- (2) 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 certified monthly income.

F. Limitations on indebtedness secured by ownership unit; subordination.

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (2) With the exception of original purchase money mortgages, during a control period 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 that unit, as such price is determined by the administrative agent in accordance with *N.J.A.C.5:80-26.6(b)*.

G. Control Periods for Restricted Rental Units

- (1) 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 Article until the [insert name of municipality] elects to release the unit from such requirements pursuant to action taken in compliance with *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, and prior to such an election, 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, for at least 30 years.
- (2) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy. The deed restriction shall be subject to the approval of the Administrative Agent and shall be substantially in the form set forth in Schedule B, annexed hereto and made part of this Article.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Article, despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or
 - (c) The entry and enforcement of any judgment of foreclosure.

H. Price Restrictions for Rental Units; Leases

- (1) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (2) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (3) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Article.

I. Tenant Income Eligibility.

- (1) 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:
 - (a) Very low-income rental units shall be reserved for households with a gross

household income less than or equal to 30 percent of median income.

- (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, 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:
- (a) 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;
 - (b) 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;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)(a) through (e) above with the Administrative Agent, who shall counsel the household on budgeting.

§33-38 Affordable Housing Development Fees

A. Purpose.

In *Holmdel Builder's Association 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 COAH developing rules as amended from time to time and/or in accordance with the enacted legislation and/or in accordance with directives from the Courts. The purpose of this article is to establish standards for the collection, maintenance and expenditure of development fees pursuant to the above. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing.

B. Development Fees.

(1) Residential Development Fees.

a. Within all zone districts, unless invalidated by State Statute or Court Order, developers of residential housing, except for developers of the types of development specifically exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development, that no increased density is permitted.

b. When an increase in residential density has been permitted pursuant to N.J.S.A. 40:55D-70d (known as a "d" variance) or pursuant to Zoning Amendment or pursuant to the adoption of a Redevelopment Plan pursuant to New Jersey Local Redevelopment and Housing Law (NJSA 40A-12-1 et. seq.), developers shall be required to pay a residential development fee of a maximum of 6% of the equalized assessed value for each additional unit that may be realized.

c. Affordable housing developments and residential developments where the developer is providing for the construction of affordable units elsewhere in the municipality shall be exempt from residential development fees.

d. Residential Developments that have received preliminary or final site plan approval prior to the adoption of a municipal residential development fee shall be exempt from residential development fees, unless the developer seeks a substantial change in the approval or the developer has accepted responsibility to pay a residential development fee. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. A development fee shall be based on the percentage that applies on the date that a building permit is issued, regardless of the time of collection of the fee.

e. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a residential development fee.

f. Residential development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

g. A developer of an addition to an existing single family residential unit which constitutes less than a fifty (50%) percent increase in the gross floor area of the unit shall be exempt from the development fee.

(2) Nonresidential development fees.

a. Within all zoning districts, unless invalidated by State Statute or Court Order, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a nonresidential development fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction.

b. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a nonresidential development fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

c. Development fees shall be imposed and collected when an existing structure is

demolished and replaced. Whenever non-residential development is situated on real property that has been previously developed with a building, structure, or other improvement, the non-residential development fee shall be equal to two and a half (2.5) percent of the equalized assessed value of the land and improvements on the property where the non-residential development is situated at the time the final certificate of occupancy is issued, less the equalized assessed value of the land and improvements on the property where the non-residential development is situated, as determined by the tax assessor of the municipality at the time the developer or owner, including any previous owners, first sought approval for a construction permit, including, but not limited to, demolition permits, pursuant to the State Uniform Construction Code, or approval under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

d. The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.

e. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

f. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:

(1) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;

(2) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;

(3) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;

(4) projects that are located within a specifically delineated urban transit hub, as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208);

(5) projects that are located within an eligible municipality, as defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and

(6) projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.

Any exemption claimed by a developer shall be substantiated by that developer.

g. A developer of a nonresidential development exempted from the nonresidential development fee, shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

h. 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 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Teaneck as a lien against the real property of the owner.

(3) Collection procedures.

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 responsible for the issuance of a building permit.

b. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential 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 Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

d. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

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 Township of Teaneck 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). Upon tender of the estimated non-

residential development fee, provided the developer is in full compliance with all other applicable laws, the municipality shall issue a final certificate of occupancy for the subject property.

h. A developer of a mixed use development shall be required to pay the Statewide non-residential development fee relating to the non-residential development component of a mixed use development subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

i. Non-residential construction which is connected with the relocation of the facilities of a for-profit hospital shall be subject to the fee authorized to be imposed under this section to the extent of the increase in equalized assessed valuation in accordance with regulations to be promulgated by the Director of the Division of Taxation, Department of the Treasury.

j. The payment of non-residential development fees required pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7) shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any non-residential development until such time as the fee imposed pursuant to this section has been paid by the developer. A non-residential developer may deposit with the appropriate entity the development fees as calculated by the municipality under protest, and the local code enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy.

(4). Appeal of Development Fees

a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Teaneck. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax 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.

b. A developer may challenge nonresidential 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 Township of Teaneck. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax 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). Retention of Fees. Any fees collected prior to the adoption or amendment of this article shall be retained by the Township of Teaneck.

C. Housing trust fund.

(1) There is hereby created a separate interest-bearing housing trust fund to be maintained by the Township's Chief Financial Officer and proceeds from the sale of units with

extinguished controls.

(2) The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:

- a. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - Rental income from municipally operated units;
- c. Repayments from affordable housing program loans;
- d. Recapture funds;
- e. Proceeds from the sale of affordable units; and
- f. Any other funds collected in connection with the Township of Teaneck's affordable housing program.

(3) Use of funds.

- a. Money deposited in a housing trust fund may be used for any activity approved for addressing the Township of Teaneck's low- and moderate-income housing obligation in accordance with Teaneck Housing Element and Fair Share Plan, Spending Plan or any directives from the Courts. Such activities may include, but are not necessarily limited to: housing rehabilitation; new construction; the purchase of land for low- and moderate-income housing; preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, including the extension of controls, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income households; and administrative costs necessary to implement the Township of Teaneck's housing element. The expenditure of all money shall conform to a spending plan approved by the Courts.
- b. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - iii. 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.

D. The Township of Teaneck 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.

- E. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Courts monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.
- F. Funds shall not be expended to reimburse the Township of Teaneck for housing activities carried out prior to the establishment of the Affordable Housing Trust Fund.
- G. Monitoring. The Township of Teaneck shall complete and return to the Courts all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Teaneck’s housing program, as well as to the expenditure of revenues and implementation of the plan certified the Courts. All monitoring reports shall be completed on forms designed by the Courts.
- H. This section is intended to be interpreted and applied consistent with the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 et seq.). In the event of any inconsistency, this section shall be read so as to comply with the Act.

SECTION 2. Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

SECTION 4. Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Bergen.

Mohammed Hameeduddin, Mayor

ATTEST:

Issa Abbasi, Township Clerk

Introduced: _____

Adopted: _____

SCHEDULE A - MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the ___ day of _____, 20___, by and between the [Administrative Agent] ("Administrative Agent"), or its successor, acting on behalf of _____ [Municipality], with offices at _____, and _____ a New Jersey [Corporation / Partnership / Limited Partnership] having offices at _____ the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

[If the project is a 100 percent affordable development, use the following:]

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and

described more specifically as Block No. _____ Lot No. _____ , and known by the street address:

[Where restrictions are limited to specific units within the project, use the following:]

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____ , and known by the street address:

More specifically designated as:

(List specific affordable units by address or apartment number.)

Article 3. Affordable Housing Covenants

The following covenants (the “Covenants”) shall run with the land for the period of time (the “Control Period”), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the “Control Period,” until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
2. **Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or**

became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.

- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq*, the “Uniform Controls”).
- B. The Property shall be used solely for the purpose of providing rental dwelling units for low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
- C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation

of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE ADMINISTRATIVE AGENT]

BY: _____

XXXXXXXXXXXXXX

Title

[THE OWNER]

BY: _____

XXXXXXXXXXXXXX

Title

APPROVED BY _____ [Municipality]

BY: _____

XXXXXXXXXXXXXX

Title

ACKNOWLEDGEMENTS

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be the Administrative Agent for _____ [Municipality], who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be _____, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____ known and known to me to be _____ of _____, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

NOTARY PUBLIC

SCHEDULE B - MANDATORY DEED FORM FOR OWNERSHIP UNITS

Deed

With Covenants Restricting Conveyance
And Mortgage Debt

THIS DEED is made on this the _____ day of _____, 20__ by and between _____ (Grantor) and _____ (Grantee).

Article 1. Consideration and Conveyance

In return for payment to the Grantor by the Grantee of _____ Dollars (\$.), the receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants and conveys to the Grantee all of the land and improvements thereon as is more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the street address:

Article 3. Grantor's Covenant

The Grantor hereby covenants and affirms that Grantor has taken no action to encumber the Property.

Article 4. Affordable Housing Covenants

Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Regulations"). Consistent with the Regulations, the following covenants (the "Covenants") shall run with the land for the period of time commencing upon the earlier of (a) the date hereof or (b) the prior commencement of the "Control Period", as that term is defined in the Regulations, and terminating upon the expiration of the Control Period as provided in the Regulations.

In accordance with N.J.A.C. 5:80-26.5, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years;

- A. The Property may be conveyed only to a household who has been approved in advance and in writing by _____, an administrative agent appointed under the Regulations (hereinafter, collectively, the "Administrative Agent").
- B. No sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent, and no sale shall be for a consideration greater than maximum permitted price ("Maximum Resale Price", or "MRP") as determined by the Administrative Agent.
- C. No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt (collectively, "Debt") secured by the Property, may be incurred except as approved in advance and in writing by the Administrative Agent. At no time shall the Administrative Agent approve any such Debt, if incurring the Debt would make the total of all such Debt exceed Ninety-Five Percent (95%) of the applicable MRP.
- D. The owner of the Property shall at all times maintain the Property as his or her principal place of residence.
- E. Except as set forth in F, below, at no time shall the owner of the Property lease or rent the Property to any person or persons, except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent.
- F. If the Property is a two-family home, the owner shall lease the rental unit only to income-certified

low-income households approved in writing by the Administrative Agent, shall charge rent no greater than the maximum permitted rent as determined by the Administrative Agent, and shall submit for written approval of the Administrative Agent copies of all proposed leases prior to having them signed by any proposed tenant.

G. No improvements may be made to the Property that would affect its bedroom configuration, and in any event, no improvement made to the Property will be taken into consideration to increase the MRP, except for improvements approved in advance and in writing by the Administrative Agent.

Article 5. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing. Accordingly, and as set forth in N.J.A.C. 5:80-26.18:

A. In the event of a threatened breach of any of the Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

EXECUTION BY GRANTOR

Signed by the Grantor on the date hereof. If the Grantor is a corporation, this Deed is signed by a corporate officer who has authority to (a) convey all interests of the corporation that are conveyed by this Deed, and (b) to bind the corporation with respect to all matters dealt with herein.

Signed, sealed and delivered in
the presence of or attested by:

_____ [seal]

_____ [seal]

_____ [seal]

_____ [seal]

CERTIFICATE OF ACKNOWLEDGEMENT BY INDIVIDUAL

State of New Jersey, County of _____

I am either (check one) ___ a Notary Public or ___ a _____, an officer authorized to take acknowledgements and proofs in the state of New Jersey. I sign this acknowledgement below to certify that it was executed before me. On this the ___ day of _____, 20__
_____ appeared before me in person. *(If more than one person appears, the words "this person" shall include all persons named who appeared before the officer making this acknowledgement).* I am satisfied that this person is the person named in and who signed this Deed.

This person also acknowledged that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$_____.

Officer's signature: Sign above, and print stamp or type name below

CORPORATE PROOF BY SUBSCRIBING WITNESS

State of New Jersey, County of _____

I am either (check one) ____ a Notary Public or ____ a _____, an officer authorized to take acknowledgements and proofs in the state of New Jersey. On this the ____ day of _____, 20____, _____ (hereinafter the "Witness") appeared before me in person. The Witness was duly sworn by me, and under oath stated and proved to my satisfaction that:

1. The Witness is the _____ secretary of the corporation which is the Grantor described as such in this deed (hereinafter the "Corporation").
2. _____, the officer who signed this Deed is the (title) _____ of the Corporation (hereinafter the "Corporate Officer").
3. The making, signing, sealing and delivery of this Deed have been duly authorized by a proper resolution of the Board of Directors of the Corporation.
4. The Witness knows the corporate seal affixed to this Deed is the corporate seal of the Corporation. The Corporate Officer affixed the seal to this Deed. The Corporate Officer signed and delivered this Deed as and for the voluntary act and deed of the Corporation. All this was done in the presence of the Witness who signed this Deed as attesting witness. The Witness signs this proof to attest to the truth of these facts.

The Witness also acknowledges that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$_____.

Sworn and signed before me on the date above written:

Witness: Sign above and print or type name below

Officer's signature: Sign above, and print stamp or type name below

ATTEST:

Doug Ruccione
Acting Township Clerk

Mohammed Hameeduddin,
Mayor