

LEGAL NOTICE

**TOWNSHIP OF PARSIPPANY-TROY HILLS
MUNICIPAL ORDINANCES**

NOTICE OF INTRODUCTION

NOTICE IS HEREBY GIVEN, that the following Ordinance was submitted in writing at a Meeting of the Township Council of the Township of Parsippany-Troy Hills, in the County of Morris and State of New Jersey, held on **September 3, 2019** introduced and passed on first reading and the governing body will further consider the same for second reading and final passage thereof at a Meeting to be held on **October 1, 2019** at 7:00 p.m., prevailing time, or as soon thereafter as the matter may be reached, at the Municipal Building in said Township at which time and place a Public Hearing will be held thereon by the governing body, and all persons and citizens in interest shall have an opportunity to be heard concerning same. A copy of this ordinance has been posted on the Bulletin Board in the Municipal Building. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

KHALED MADIN
Township Clerk

**TOWNSHIP OF PARSIPPANY-TROY HILLS
MORRIS COUNTY, NEW JERSEY**

ORDINANCE NO. 2019:61

AN ORDINANCE IMPLEMENTING THE TOWNSHIP'S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE TOWNSHIP OF PARSIPPANY-TROY HILLS AND THE FAIR SHARE HOUSING CENTER IN ACCORDANCE WITH THE NEW JERSEY FAIR HOUSING ACT, AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING.

WHEREAS, the Township of Parsippany-Troy Hills (Township) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Township of Application of the Township of Parsippany-Troy Hills, Docket No. MRS-L-169-15 following the New Jersey Supreme Court's decision in Mt. Laurel IV; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center on or about March 19, 2019 establishing the Township's Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by

which the Township will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court entered an order on July 24, 2019 approving the Settlement Agreement by and between the Township and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to very-low, low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreement requires the Township to adopt an affordable housing ordinance incorporating the requirements of the Fair Housing Act and its implementing regulations including the Uniform Housing Affordability Controls into the Township code;

WHEREAS, the Township Council finds it is in the best interest of the Township to implement the terms and conditions of the Settlement Agreement and the requirements of the Court's order approving the Settlement Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Parsippany-Troy Hills, County of Morris, and State of New Jersey that Chapter 430 Section 430-252 of the Land Use Volume of the Township Code, entitled Low and Moderate-income housing requirements is repealed in its entirety and replaced by a new Article XLXIX entitled Affordable Housing which read as follows:

Section 1. Add a new Chapter XLXIX titled "Affordable Housing" and include the following:

§430-415. Purpose

A. This Ordinance is intended to assure that very-low, low- and moderate-income units (affordable units) are created with controls on affordability and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

B. The Township of Parsippany-Troy Hills Planning Board has adopted a Housing Plan 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 adopted by the Planning Board and endorsed by the Governing Body. The Fair Share Plan describes how the Township of Parsippany-Troy Hills shall address its fair share for very-low, low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Township of Parsippany-Troy Hills and Fair Share Housing Center (FSHC).

C. This Ordinance implements the Township's Fair Share Plan and addresses the requirements of the Court and the terms of the Settlement Agreement.

D. The Township of Parsippany-Troy Hills shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at the Township's Municipal Building.

§430-416. Definitions

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

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

‘Affirmative marketing’ 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 new restricted units in an affordable housing development are affordable to low- and moderate-income households.

Affordable means a sales price or rent level that is within the means of a very low, low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as 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 housing development means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township’s fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

‘Affordable unit’ means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

‘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 where the head of household is a minimum age of either 62 years, or 55 years and meets the provisions of the 42 U.S.C. § 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside.

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

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

‘Certified household’ means a household that has been certified by an Administrative Agent as a very low-income household, low-income household or moderate-income household.

‘COAH’ means the New Jersey Council on Affordable Housing and/or its successors and assigned pursuant to applicable laws.

‘DCA’ means the State of New Jersey Department of Community Affairs.

‘Deficient housing unit’ means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

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

‘Development’ 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.

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

‘Low-income household’ 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 and load bearing structural systems.

‘Market-rate units’ means housing not restricted to very low, low, or moderate-income households that may sell or rent at any price.

‘Median-income’ means the median income by household size for the applicable housing region, as updated annually by COAH or through a court-approved process.

‘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.

‘Multifamily unit’ means a structure containing five or more dwelling units.

‘Municipal Housing Liaison’ shall mean the employee charged by the Governing Body with the responsibility for oversight and administration of the affordable housing program for the Township of Parsippany-Troy Hills.

‘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.

‘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).

‘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 duly adopted Regional Income Limits published annually by COAH, a successor entity, or established by the Court.

‘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.

‘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 an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented.

‘UHAC’ means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, 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 for the applicable housing region.

‘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 purposes of a rehabilitation program.

§430-417. Applicability

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Parsippany-Troy Hills pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

B. In addition, any property in the Township of Parsippany-Troy Hills that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside as set forth in Section 35-606-1.5. The determination of a sufficient compensatory benefit shall be made by the reviewing authority based upon prevailing legislation and/or case law.

C. The following sections shall apply to all developments that contain affordable housing units, as defined herein, including any currently unanticipated future developments that will provide affordable housing units.

§430-418. Alternative Living Arrangements

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

- (1). Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
- (2). Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

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

§430-419. Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

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

§430-420. New Construction

A. Very-Low, Low & Moderate Split and Bedroom Distribution of Affordable Housing Units:

(1). The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very low-income units shall be counted as part of the required number of low income units within the development. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 25 percent may be age restricted. At least half of the units in total shall be available to families.

(2). In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

(3). Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

(a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total affordable units;

(b) At least 30 percent of all affordable units shall be two-bedroom units;

(c) At least 20 percent of all affordable units shall be three-bedroom units; and

(d) The remaining units may be allocated among two and three-

bedroom units at the discretion of the developer.

(4). Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted very low-, low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements:

(1). The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7)

(2). All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one (1) other dwelling unit shall have the following features:

(a) An adaptable toilet and bathing facility on the first floor; and

(b) An adaptable kitchen on the first floor; and

(c) An interior accessible route of travel on the first floor; and

(d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

(e) If not all of the foregoing requirements in 2.a through 2.d can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.a through 2.d above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Parsippany-Troy Hills has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:

[1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit

funds within the Township of Parsippany-Troy Hills's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph 2)f) above shall be used by the Township of Parsippany-Troy Hills for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Parsippany-Troy Hills for the conversion of adaptable to accessible entrances.

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design:

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

D. Maximum Rents and Sales Prices:

- (1). In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC,

utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.

(2). The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 (60%) percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent (52%) of median income.

(3). The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for very low, low-income and moderate-income units, provided that at least thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning thirty percent (30%) or less of the regional median household income.

(4). The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55 %) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) different sales prices for each bedroom type.

(5). In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one (1) person household;
- (b) A one-bedroom unit shall be affordable to a one and one-half (1.5) person household;
- (c) A two-bedroom unit shall be affordable to a three (3) person household;
- (d) A three-bedroom unit shall be affordable to a four and one-half (4.5) person household; and
- (e) A four-bedroom unit shall be affordable to a six-person (6) household

(6). In determining the initial sales prices and rents for compliance with

the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person (1) household;
- (b) A one-bedroom unit shall be affordable to a one and one-half (1.5) person household; and
- (c) A two-bedroom unit shall be affordable to a two-person household (2) or to two (2) one-person households.

(7). The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed-Rate mortgage rate (formerly Federal Reserve H.15), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(8). The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty percent (30%) of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(9). Income limits for all units that are part of the Township's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within sixty (60) days of the publication of determinations of median income by HUD as follows:

- (a) Regional income limits shall be established for Region 2 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The

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

(10). The income limits are the result of applying the percentages set forth in paragraph 9.a. above to HUD's determination of median income for the current Fiscal Year and shall be utilized by the Township until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(11). The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph 9.a. above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

E. Affordable Housing Set-Asides

(1) Refer to §430-436.

(2) No development that has an affordable housing set-aside obligation may fulfill that obligation by utilizing the Township's Market-to-Affordable or Accessory Apartment Program unless otherwise provided by ordinance, redevelopment or development agreement.

(3) Payments in lieu and off-site provision of affordable housing shall be subject to Council approval.

§430-421. MINIMUM FLOOR AREA REQUIREMENTS FOR VERY-LOW, LOW AND MODERATE-INCOME HOUSING UNITS.

A. The minimum floor area requirements for very-low, low and moderate-income housing units shall comply with minimum applicable building code requirements.

§430-422. UTILITIES

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§430-423. OCCUPANCY STANDARDS

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

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

§430-424. CONTROL PERIODS FOR RESTRICTED OWNERSHIP UNITS AND ENFORCEMENT MECHANISMS.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Township of Parsippany-Troy Hills takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay the Township, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§430-425. PRICE RESTRICTIONS FOR RESTRICTED OWNERSHIP UNITS, HOMEOWNER ASSOCIATION FEES AND RESALE PRICES

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

A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by very low, low- and moderate-income purchasers and those paid by market purchasers.

D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 430-358.

§430-426. BUYER INCOME ELIGIBILITY

A. Buyer income eligibility for restricted ownership units shall be in accordance

with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income. In addition, in accordance with the A500 ACS amendment to the Act, very low-income ownership units shall be reserved for households with a gross household income less than or equal to 30 percent of median income,

B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there are an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

§430-427. LIMITATIONS ON INDEBTEDNESS SECURED BY OWNERSHIP UNIT; SUBORDINATION.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

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

§430-428. CAPITAL IMPROVEMENTS TO OWNERSHIP UNITS

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§430-429. CONTROL PERIOD FOR RESTRICTED RENTAL UNITS

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Parsippany-Troy Hills takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Morris. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Section despite the occurrence of any of the following events:

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

§430-430. RENT RESTRICTIONS FOR RENTAL UNITS; LEASES

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any credit check) shall not exceed five percent (5%) of the monthly rent of the applicable restricted unit and shall be payable to the Developer and/or Landlord or to the Administrative Agent, to be applied only to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§430-431. TENANT INCOME ELIGIBILITY

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- (1). Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income by household size.
- (2). Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income by household size.

(3). Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income by household size.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five percent (35%) (forty percent (40%) for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

(1). The household currently pays more thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

(2). The household has consistently paid more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

(3). The household is currently in substandard or overcrowded living conditions;

(4). The household documents the existence of assets with which the household proposes to supplement the rent payments; or

(5). The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in B.1. through B.5. above with the Administrative Agent, who shall counsel the household on budgeting.

§430-432. ADMINISTRATIVE AGENT

The Administrative Agent may be an independent entity serving under contract to and reporting to the Township. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an

Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

A. Affirmative Marketing:

- (1). Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Parsippany-Troy Hills and the provisions of N.J.A.C. 5:80-26.15; and
- (2). Providing counseling or contracting to provide counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household Certification:

- (1). Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2). Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very-low, low- or moderate-income unit;
- (3). Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4). Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5). Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- (6). Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Parsippany-Troy Hills when referring households for certification to affordable units; and
- (7). Notifying the following entities of the availability of affordable housing units in the Township of Parsippany-Troy Hills: FSHC; the New Jersey State Conference of the NAACP;

the Latino Action Network; the Morris County, Newark, and East Orange chapters of the NAACP; Housing Partnership for Morris County; Community Access Unlimited Inc.; NORWESCAP; Homeless Solutions of Morristown; and the Supportive Housing Association.

C. Affordability Controls:

- (1). Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2). Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3). Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Morris County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4). Communicating with lenders regarding foreclosures; and
- (5). Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

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

E. Processing Requests from Unit Owners:

- (1). Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;

(2). Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

(3). Notifying the Township of an owner's intent to sell a restricted unit; and

(4). Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

(1). Securing annually from the Township a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

(2). Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(3). 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 or other charges can be made;

(4). Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(5). Establishing a program for diverting unlawful rent payments to the Township's Affordable Housing Trust Fund; and

(6). Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

- (1). The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2). The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
- (3). The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§430-433. AFFIRMATIVE MARKETING REQUIREMENTS

- A. The Township of Parsippany-Troy Hills shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2, comprised of Essex, Morris, Union and Warren Counties.
- D. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rere rentals. The Administrative Agent designated by the Township of Parsippany-Troy Hills shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to very-low, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the Township in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§430-434. ENFORCEMENT OF AFFORDABLE HOUSING REGULATIONS

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a very-low, low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(1). The Township may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

(a) A fine of not more than \$2,500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a

continuation of the initial offense;

(b) In the case of an Owner who has rented a very low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Parsippany-Troy Hills Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented a very low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

(2). The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the very-low, low- or moderate-income unit.

(a) The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the very-low, low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

(b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the very-low, low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Township in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the Township for such. Failure of the Owner to claim

such balance within the two-year period shall automatically result in a forfeiture of such balance to the Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.

(c) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Township may acquire title to the very-low, 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 very-low, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

(e) Failure of the very-low, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Township, with such offer to purchase being equal to the maximum resale price of the very-low, low- and moderate-income unit as permitted by the regulations governing affordable housing units.

(f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

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

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township if Parsippany-Troy Hills, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township if Parsippany-Troy Hills are hereby ratified and confirmed, except where inconsistent with the terms hereof.

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

Section 5. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township if Parsippany-Troy Hills for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Morris County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.