

TOWNSHIP OF MOORESTOWN

ORDINANCE NO. 29-2005

**AN ORDINANCE OF THE TOWNSHIP OF MOORESTOWN
AMENDING CHAPTER 97 OF THE CODE
OF THE TOWNSHIP OF MOORESTOWN ENTITLED
AFFORDABLE HOUSING, FAIR SHARE PLAN AND
AFFIRMATIVE MARKETING**

WHEREAS, the Township of Moorestown is seeking, from the New Jersey Council on Affordable Housing (“COAH”), Third Round Certification of its 2005 Housing Element and Fair Share Plan to provide required low and moderate income housing; and

WHEREAS, the Township is required to have in place an affordable housing plan to satisfy the COAH requirements; and

WHEREAS, it is in the best interest of the Township of Moorestown to enact an ordinance to be in compliance with COAH regulations and the Uniform Housing Affordability Controls that place restrictions on how affordable units are to be occupied and marketed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, as follows:

Section 1: Chapter 97 of the Code of the Township of Moorestown shall be deleted in its entirety and the following language shall be inserted in its place.

**Chapter 97
Affordable Housing**

**Article 1
Housing Affordability Controls**

- 97-1. Purpose**
- 97-2. Affordability Average; Bedroom Distribution**
- 97-3. Occupancy Standards**
- 97-4. Ownership Units**
- 97-5. Rental Units**

**Article II
Administration of Controls**

- 97-6. Administrative Agent**
- 97-7. Affirmative Marketing**
- 97-8. Household Certification and Random Selection**
- 97-9. Procedures for Changing Administrative Agent**
- 97-10. Enforcement**
- 97-11. Appeals**

Article I

Housing Affordability Controls

97-1. Purpose

This Chapter is designed to implement the Township's revised fair share plan for low and moderate-income housing adopted pursuant to the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) (the "Act"), (N.J.A.C. 5:80-26.1 et seq.) the "Housing Affordability Controls" (N.J.A.C. 5:80-26.1 et seq.) ("Housing Controls") and all regulations of the New Jersey Council on Affordable Housing (COAH). All words, phrases, and terms herein shall have the same meanings and usages as in said Act housing controls and regulations. This Ordinance provides rules for the establishment and administration of affordability controls on each restricted dwelling unit for which the Township receives a COAH credit.

97-2. Affordability Average; Bedroom Distribution

- (A) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate-income units.
- (B) 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 is 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 are two bedroom units;
 - 3. At least 20 percent of all low and moderate-income units are three bedroom units; and
 - 4. The remainder, if any, may be allocated at the discretion of the developer.
- (C) Age-restricted low and moderate-income units may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the affordable development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.
- (D) The maximum rent for affordable units within each affordable development shall be affordable to households earning no more than 60 percent of median income. The average rent for low and moderate-income units must be affordable to households earning no more than 52 percent of median income. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate-income units, provided that at least 10 percent of all low and moderate-income units shall be affordable to households earning no more than 35 percent of median income.
- (E) 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. 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.

(F) Affordable units shall utilize the same type of heating source as market units within the affordable development.

(G) The provisions of this section shall not apply to affordable developments financed under UHORP or MONI or to assisted living residences, which shall comply with applicable Agency (NJHMFA) policies, guidelines and regulations.

97-3. Occupancy Standards

(A) In determining the initial rents and initial sales prices for compliance with the affordable 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;
5. A four bedroom unit shall be affordable to a six person household.

(B) For 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 one and one-half person household;
3. A two-bedroom unit shall be affordable to a two person household or to two one-person households.

(C) 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:

1. Provide an occupant for each unit bedroom;
2. Provide children of different sex with separate bedrooms; and
3. Prevent more than two persons from occupying a single bedroom.

97-4. Ownership Units

(A) Each restricted ownership unit shall remain subject to the affordability controls for 30 years and until as such time as the Township elects to release the unit from affordability controls pursuant to action taken in compliance with N.J.A.C. 5:80-26.5(g).

- (B) Each restricted ownership unit shall remain subject to N.J.A.C. 5:80-26.6 establishing price restrictions for ownership units, N.J.A.C. 5:80-26.7 establishing buyer income eligibility for ownership units, N.J.A.C. 5:80-26.8 establishing limitations on indebtedness secured by an ownership unit, N.J.A.C. 5:80-26.9 governing capital improvements and N.J.A.C. 5:80-26.10 requiring maintenance in accordance with all municipal code standards.

97-5. Rental Units

Each restricted rental unit shall remain subject to the requirements of the Housing Controls for a period of 30 years and until the Township elects to release the unit pursuant to N.J.A.C. 5:80-26.11(e). Until released each restricted rental unit shall remain subject to the restrictions on rents set forth in N.J.A.C. 5:80-26.12 and tenant income eligibility pursuant to N.J.A.C. 5:80-26.13.

Article II Administration of Controls

97-6. Administrative Agent

- (A) Each restricted unit identified in Moorestown Township's Fair Share Housing Plan shall have a designated administrative agent. The affordability controls set forth in this ordinance shall be administered and enforced by the administrative agent. The primary responsibility of the administrative agent shall be to ensure that the restricted units under administration are sold or rented, as applicable, only to low and moderate-income households. Among the responsibilities of the administrative agent are those outlined under N.J.A.C. 5:80-26.14.
- (B) Moorestown Ecumenical Neighborhood Development, Inc. (MEND) shall be to the administrative agent for the purpose of administering and enforcing the affordability controls for all restricted units which MEND owns, manages, and/or maintains. MEND's primary responsibility shall be to ensure that the restricted units under its administration are sold or rented, as applicable, only to low and moderate-income households. Among MEND's responsibilities are those required for all administrative agents listed in Section 97-6(C).
- (C) The administrative agent shall have the responsibility to establish and enforce affordability controls and ensure that units in their portfolio are sold or rented, as applicable, to eligible households. The administrative agent's responsibilities are the following:
1. Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with N.J.A.C. 5:80-26.15;
 2. Soliciting, scheduling, conducting and following up on interviews with interested households;
 3. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility of a low or moderate-income unit;

4. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
5. Creating and maintaining a referral list of eligible applicant households living in the Southwest COAH Region (Region) and eligible applicant households with members working Region;
6. Employing a random selection process when referring households for certification to affordable units;
7. 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;
8. Creating and maintaining a file on each restricted unit for its control, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
9. 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;
10. Instituting and maintaining an effective means of communicating information to low and moderate-income households regarding the availability of restricted units resale or rental;
11. 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;
12. 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;
13. Processing requests and making determinations and requests by owners of restricted units for hardship waivers;
14. Communicating with lenders regarding foreclosures;
15. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10;
16. Notifying the Township of an owner's intent to sell a restricted unit;
17. Ensuring that the removal of the deed restriction and cancellation of the mortgage note are effectuated and properly filed with the Burlington County Clerk's office after the termination of the affordability controls for each restricted unit;
18. Providing such annual reports as may be required by COAH;
19. Such other responsibilities as may be necessary to carry out the Housing Controls.

(D) The administrative agent shall create and publish in plain English, and in such other languages as may be appropriate to serve its client base, a written operating manual, as approved by COAH, setting forth procedures for administering affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants set forth in N.J.A.C. 5:80-26, App. A, App. B, App. C, App. D, and App. E, consistent with the provisions of N.J.A.C. 5:80-26.18; and for releasing restricted units promptly at the conclusion of applicable control periods. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth in N.J.A.C. 5:80-26.16.

1. Such process shall require that an applicant household be notified in writing of the results of its application for certification within 20 days of the administrative agent's determination thereof.
 2. At the discretion of the administrative agent, such process may include either or both an outreach requirement or a face to face applicant interview process.
 3. The administrative agent shall establish and maintain a ready database of applicant households as a referral source for certifications to restricted units, and shall establish written procedures to ensure that selection among applicant households be via the database, and in accordance with a uniformly applied random selection process and all applicable State and Federal laws related to the confidentiality of applicant records.
- (E) The Township designates the Senior Planner as Municipal Housing Officer to act as liaison between COAH, the municipality, and MEND or other developer or sponsor of affordable housing. The Municipal Housing Officer may act as the administrative agent for some restricted units in the Township. The Municipal Housing Officer shall be responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of all affordable housing units. The primary responsibility of the Municipal Housing Officer shall be to ensure that all affordable housing projects are established and administered according to the COAH and Uniform Housing Affordability Controls (UHAC) regulations. Other responsibilities of the Municipal Housing Officer are to:
1. Monitor the status of all restricted units in Moorestown Township's Fair Share Plan and comply with COAH monitoring and reporting requirements.
 2. Serve as Moorestown Township's primary point of contact for all inquiries from COAH and other government agencies, owners, landlords, and administrative agents of restricted affordable housing units, persons of households interested in affordable housing and the public.
 3. Coordinate meetings with developers/owners of restricted affordable units and administrative agents.

97-7. Affirmative Marketing

- (A) The affirmative marketing plan is a regional marketing strategy designed in accordance with N.J.A.C. 5:80-26.15 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 or sponsor of affordable housing. The affirmative marketing plan is also designed to target those persons who are least likely to apply for affordable housing units in this Region and is a continuing program that directs all marketing activities during the period of deed restriction.
- (B) The affirmative marketing plan is intended to be used for all developments that contain restricted low and moderate-income housing units located within the Township. Information provided in the marketing of low and moderate-income

units shall contain the name and address of the project; the number of units, including the number of sales and/or rental units; the price of sales and/or rental units; the name of the sales agent and/or rental manager along with the business hours when applications may be obtained; a description of the random selection method that will be used to select occupants, and disclosure of required application fee(s).

- (C) Applications shall be located at the Township Library and Town Hall, MEND corporate offices, Burlington County Library, Camden County Library, Gloucester County Library, and the Burlington County Human Services Building. Applications shall also be mailed to prospective applicants upon request.
- (D) The media and outreach sources to be used in advertising and publicizing of the availability of housing in the affirmative marketing plan shall include the following:
 - 1. Newspapers of general circulation within the Region. All newspaper articles, announcements, and requests for applications for low and moderate income units will appear in the following daily publications: Burlington County Times, Courier Post and Gloucester County Times.
 - 2. Radio and television stations within the Region. Public service announcements shall be made through the use of the following radio stations broadcasting throughout the region: WWJZ (640.0) Mount Holly Radio Company, WGLS (89.7) Rowan College of New Jersey, and WDBK (91.5) Camden County College.
 - 3. Other publications circulated within the Region. All newspaper articles, announcements, and requests for applications for low and moderate income housing will appear in the following neighborhood oriented weekly newspapers: Moorestown Newsweekly, Camden County Record Breeze, and the Gloucester County Plain Dealer or Renters Guide Weekly.
 - 4. Employers throughout the Region. The following employers will be contacted for the posting of advertisements and the distribution of flyers regarding available affordable housing: Hoeganaes Corporation (Cinnaminson), Commerce Bank (Cherry Hill), PSE&G (Moorestown) and Lockheed Martin (Moorestown).
 - 5. Community outreach. The following is a listing of community contact person(s) and/or organizations in Burlington, Camden, and Gloucester Counties that will aid in soliciting low and moderate-income applicants, with particular emphasis on contacts that will reach out to groups that are least likely to be reached by commercial media efforts:

- (a) Area Chapter of NAACP (Bordentown)
 - (b) SASCA Hispanic Social Service Center (Willingboro)
 - (c) Interfaith Hospitality Network (Mt. Laurel)
 - (d) Moorestown Ministerial Member Churches
 - (e) Family Services of Burlington County
 - (f) Servicios Latinos de Burlington County (Mt. Holly)
 - (g) Camden Metropolitan Ministry
 - (h) Powhatan Renape Nation (Rancocas)
 - (i) Burlington County Community Action Program (BCCAP)
 - (j) Camden County Improvement Authority (Cherry Hill)
 - (k) Gloucester County Department of Economic Development (Woodbury)
6. Other advertising and outreach efforts. The following groups in the Region will be sent information circulars and applications: Board of Realtors in Burlington, Camden and Gloucester Counties, Welfare or Human Services Board in Burlington, Camden and Gloucester Counties, Rental Assistance Office (Local office of DCA), Burlington County Office of Aging , Jersey Counseling and Housing Development, Inc. (Camden), and Lutheran Social Ministries of New Jersey.
7. The affirmative marketing process for available affordable units shall begin at least four months prior to expected occupancy for initial rent-up or sale. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all available units have been leased or sold. Ongoing advertising shall be conducted no less than semi-annually to maintain an adequate applicant pool for future vacancies. In implementing the marketing program, the administrative agent shall undertake all of the following strategies:
- (a) Publication of one advertisement in a newspaper listed under 97-8(D) 1.
 - (b) Broadcast of one advertisement by a radio station listed under 97-8(D) 2.
 - (c) At least one additional regional marketing strategy using one of the sources listed above under 97-8.(D)3 through 6.
- (E) In implementing the affirmative marketing plan, each administrative agent shall designate an experienced staff agent approved by COAH to provide counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Alternatively, an administrative agent may refer applicants to an experienced agency approved by COAH to provide such counseling services.
- (F) The Township shall also ensure that all original applicant and sales records of affordable units are returned to the municipality for reporting purposes and to aid with future resale. The Township has the ultimate responsibility for the proper

administration of the affirmative marketing program including initial sales and rentals and resale and re-rentals.

97-8. Household Certification and Random Selection

- (A) The administrative agent shall prepare a standard form of certification and shall secure all information from applicant households necessary and appropriate to determine that restricted units are occupied by properly sized households with appropriate low and moderate-income levels. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received from the administrative agent a signed and dated certification, and has executed a certificate in the form set forth in N.J.A.C. 5:80-26 App. J, and App. K, as applicable. An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event, certification shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing at the request of a certified household for an additional 180 days at the administrative agent's discretion.
- (B) When reviewing an applicant household income to determine eligibility the administrative agent shall make its determination in accordance with N.J.A.C. 5:80-26.16. The administrative agent may also require a household to produce documentation of household composition for determining the correct unit size and applicable median income guide.
- (C) The administrative agent may withhold a certificate of eligibility as a result of an applicant's inability to demonstrate sufficient present assets for down payment or security deposit purposes, subject to development phasing that may provide opportunity for future savings. A certificate of eligibility may also be withheld by the administrative agent as a result of an applicant's inability to verify funds claimed as assets, household composition or other facts represented. As the result of any willful and material misstatement of fact made by an applicant in seeking eligibility the administrative agent shall deny a certificate of eligibility.
- (D) The administrative agent shall employ a random selection process when referring households for certification to affordable units. The random selection process shall include the following:
1. The administrative agent shall conduct a pre-qualification review of each application as they are received to determine preliminary income eligibility based on tenant supplied information. All qualified applications are then re-sealed and held until the date of the random selection drawing as advertised. Applicants that do not meet preliminary income requirements shall be notified in writing as to their ineligibility for the program.
 2. Applicants that meet the preliminary income requirements shall be notified by the administrative agent in writing of their eligibility and notified of the date, time,

and location that the random selection lottery will take place. The Municipal Housing Officer shall also be notified.

3. On the day of the lottery, eligible applicants shall be listed in order selected and placed in applicant pools or waiting lists based upon the type of unit they are interested in and the number of bedrooms needed.
4. After the random selection lottery is conducted, the first household on the waiting list shall be given an established number of days to express interest or disinterest in an available unit. If the first household is not interested in the unit, this process shall continue until a certified household accepts the unit. Once an applicant accepts an available unit, the administrative agent shall secure all information from applicant households necessary and appropriate to determine that the restricted units are occupied by properly sized households with appropriate low or moderate income levels. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed, dated, and executed certification.

97-9. Procedures for changing administrative agents.

In order to ensure an orderly transfer of control responsibility from a municipality to an administrative agent, from one administrative agent to another administrative agent, or other transfer, the requirements set forth in N.J.A.C. 5:80-26.17 shall apply as are necessary before or during the transition.

97-10. Enforcement

- (A) By accepting State Funds for affordable housing purposes, or by submitting to the jurisdiction of COAH, the Township is deemed to have delegated to the administrative agent the day to day responsibility for implementing practices and procedures designed to ensure effective compliance with the affordability controls, however, the Township retains ultimate responsibility for ensuring effective compliance.
- (B) The administrative agent's enforcement responsibility for implementing such practices and procedures shall not be delegated or otherwise transferred to any other party, except to a successor administrative agent.
- (C) The Township shall:
 1. Ensure that all applicable ordinances are not in conflict with, and enable efficient implementation of the Housing Controls.
 2. Ensure that all restricted units are identified as affordable within the Tax Assessor's Office. The Township shall promptly notify the administrative agent of the change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a writ or foreclosure on all affordable units.

3. Provide all reasonable and necessary assistance in support of the administrative agent's efforts to ensure effective compliance.
- (D) The administrative agent's practices and procedures shall include, but not necessarily be limited to the following:
1. The posting annually on all rental properties, including two-family homes of a notice as to the maximum permitted rent together with the administrative agent's telephone number where complaints of excess rent can be made;
 2. Annual mailings to all owners of affordable dwellings reminding them of the following notices and requirements:
 - i. If the unit is owner-occupied, that the unit may be resold only to a household that has been approved in advance and in writing by the administrative agent.
 - ii. That no sale of the unit shall be lawful, unless approved in advance in writing by the administrative agent, and that no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the administrative agent;
 - iii. That no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the administrative agent, and that at no time will the administrative agent approve any debt, if incurring the debt would make the total of all such debt exceed 95% of the then applicable maximum permitted resale price;
 - iv. That the owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least 260 days out of each calendar year;
 - v. That, except as set forth in N.J.A.C. 5:80-26.18(e)4vii, at no time shall the owner of the unit lease or rent the unit to any person or persons, except on a short-term hardship basis, as approved in advance and in writing by the administrative agent.
 - vi. That the maximum permitted rent charge billed to affordable tenants is as stated in the notice required to be posted in accordance with N.J.A.C. 5:80-26.18(d)3, a copy of which shall be enclosed, and that copies of all leases for affordable rental units must be submitted annually to the administrative agent.
 - vii. If the affordable unit is a two-family, the owner shall lease the rental unit only to certified 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 the administrative agent's written approval copies of all proposed leases prior to having them signed by any proposed tenant;
 - viii. That no improvements may be made to any unit that would affect its bedroom configuration, except as provided in N.J.A.C. 5:80-26.9(a) and in any event that no improvement made to the unit will be taken into consideration to increase the maximum permitted resale price except improvement approved in advance and in writing by the administrative agent;

3. Securing annually from the Township lists of all affordable housing units to which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to the unit or sell it.
4. Establishing a program for diverting unlawful rent payments to the Township's affordable housing trust fund or other appropriate fund approved by the Department of Community Affairs.

97-11. Appeals

Appeals from all decisions of the administrative agent shall be filed in writing with the Executive Director of the Agency (New Jersey Housing and Mortgage Finance Agency). When acting in this capacity, the Executive Director may appoint one or more employees of the Agency, COAH and or the Department of Community Affairs to assist him or her in rendering the final decision, whenever he or she, in his or her sole discretion, determines that committee participation would materially provide a fair and just disposition of the appeal. A written decision of the Executive Director upholding, modifying or reversing an administrative agent's decision shall be a final administrative action.

Section 2. Severability. In the event that any section or paragraph, clause, phrase, term, provision, or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, clause, phrase, term, provision or part thereof directly involved in the controversy in such judgment shall be rendered.

Section 3. Repealer. Any and all ordinances, inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

Section 4. Effective Date. This ordinance shall take effect upon proper publication and in accordance with law.

Section 5. Short Title. This ordinance shall be known as Ordinance 29-2005.

CERTIFICATION

I hereby certify that Ordinance No. 29-2005 was introduced and adopted on first reading by the Township Council at a meeting held on October 24, 2005. This ordinance was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on November 14, 2005.

	<u>VOTE:</u>
ABERANT	YES
ROCCATO	YES
MILLER	YES
SEGAL	YES
ERON	YES

Patricia L. Hunt, RMC
Township Clerk