

**BOROUGH OF RIVERTON**  
**A G E N D A**  
**SPECIAL MEETING OF THE GOVERNING BODY**

**SEPTEMBER 24, 2019 AT 7 O’CLOCK P.M**

**JOINT MEETING.**

**RIVERTON SCHOOL**

1. Flag Salute
2. Open Public Meetings Act Notice
3. Roll Call both Governing Bodies & Professionals
4. Planning Board Meeting:
  - a. Discussion of Findings of Master Plan Consistency Review
  - b. Public Comment
  - c. Determination (resolution to follow) of Master Plan Consistency Review with Ordinances
  - d. Planning Board Adjournment
5. Mayor-Council Meeting:
  - a. Discussion of Ordinances for Adoption
  - b. Adopt Ordinance O-2019-06
    - i. O-2019-06 Public Hearing
  - c. Adopt Ordinance O-2019-07
    - i. O-2019-07 Public Hearing
6. Mayor Closing Comments
7. Adjournment

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**AN ORDINANCE OF THE BOROUGH OF RIVERTON, BURLINGTON COUNTY, AMENDING CHAPTER 128 (“ZONING”), ARTICLE XA (“AFFORDABLE HOUSING AH DISTRICT”), ARTICLE X (“PARKS P DISTRICT”), ARTICLE IX (“NEIGHBORHOOD BUSINESS NB DISTRICT”), ARTICLE XB (“OVERLAY ZONES”), ARTICLE XXIV (“BOROUGH WIDE MANDATORY AFFORDABLE HOUSING SET-ASIDE”) AND ARTICLE XXV (“AFFORDABLE HOUSING DEVELOPMENT FEES”), OF THE BOROUGH CODE OF RIVERTON TO ADDRESS THE REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY REGARDING COMPLIANCE WITH THE BOROUGH’S FAIR SHARE AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, the Borough of Riverton (the “Borough”) entered into a Settlement Agreement with Fair Share Housing Center, Inc., dated March 4, 2019, agreeing and committing to adopt the requisite Ordinances and municipal planning documents, and to take such other action as necessary to insure that the Borough has removed all legal or regulatory impediments to the construction of the Borough’s fair share of affordable housing within the Borough; and

**WHEREAS**, pursuant to the conditions of the Borough’s Order of Fairness and Compliance dated April 29, 2019, finding that the Settlement Agreement is fair and reasonable, and adequately protects the interest of low and moderate income persons within the Borough’s housing region based upon the criteria set forth in *East/West venture v. Borough of Fort Lee*, 286 N.J. Super. 311 (App.Div. 1996) for approving a settlement of Mount Laurel Litigation, the Borough Council wishes to repeal and replace the Affordable Housing Regulations of the Borough, as contained in Article XXIII of Chapter 128 of the Borough Code to better serve the Borough in implementing its affordable housing plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Riverton, County of Burlington and State of New Jersey that the Riverton Borough Code be amended as follows:

**Section 1. MARTHA’S LANE AFFORDABLE HOUSING ZONING REVISION.** § 128-39.5A(1), (2) and (3) are hereby amended to revise the minimum lot area, minimum lot frontage and minimum lot width standards as follows:

- § 128-39.5A(1) Minimum lot area: 5,000 square feet.
- § 128-39.5A(2) Minimum lot frontage: 50 feet.
- § 128-39.5A(3) Minimum lot width: 50 feet.

**Section 2. GOLF COURSE AFFORDABLE HOUSING OVERLAY ZONE.**

§ 128-39.1A shall be replaced with the following:

- A. The permitted uses shall include the following:

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- (1) Single-family detached dwelling units.
- (2) Attached side-by-side twin residential dwelling units, subject to the following architectural standards:
  - (a) Any structure that includes a pair of attached side-by-side twin residential dwelling units shall be designed to resemble a single family residential dwelling unit.
  - (b) Review and recommendation by the Borough's Architectural Review Committee shall be required.

§ 128-39.1E shall be replaced with the following:

- E. The minimum side yards shall be 10 feet each and 25 feet total for single-family detached dwelling units and 0 feet with 25 feet total for single-family side-by-side twin style dwelling units.

§ 128-39.1K shall be replaced with the following:

- K. Twenty percent of the units shall be made available to very low-, low- and moderate-income households as defined and regulated by the Affordable Housing Regulations, Article XXIII of this chapter, UHAC at N.J.A.C. 5:80-26.1, and the Council on Affordable Housing (COAH).

§ 128-39.1L shall be replaced with the following:

- L. Development within the overlay zone may be developed in part or in whole, however, any development within the overlay zone shall comply with all other specifications and requirements of the Land Use Ordinances of the Borough.

**Section 3. LIPPINCOTT AFFORDABLE HOUSING OVERLAY ZONE:**

§ 128-32D shall be replaced with the following:

- D. Affordable housing development, in accordance with the provisions of §128-39.6 Lippincott Affordable Housing Overlay Zone.

Chapter 128 shall be amended to add Article XB Overlay Zones after Article XA as follows:

**Article XB Overlay Zones**

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**§ 128-39.6 Lippincott Affordable Housing Overlay.**

In specific areas of the NB Neighborhood Business Zone noted on the Zoning Map, affordable housing may be developed under the Lippincott Affordable Housing Overlay, provided that the following conditions are met:

- A. The permitted uses shall be two-story, single-family, attached townhomes.
- B. The maximum number of dwelling units in the zoning district shall be no more than ten (10). No more than five (5) townhomes may be attached in a single structure.
- C. The minimum front yard for all structures shall be 25 feet.
- D. The minimum side yard for all structures shall be 25 feet.
- E. The maximum lot coverage shall be 40%.
- F. The front façade and main entrance of all units shall face a public Borough street. Similar elevation styles must be separated by at least two different elevations.
- G. All entrances shall include elevated covered porches to accentuate the entrances to the units. The front porch shall be a minimum of 80 square feet in size and shall be designed to accentuate the primary entry. Any secondary entry shall include a covered porch that is a minimum of 25 square feet in size. Porches and decks shall never be permanently, seasonally or temporarily enclosed.
- H. Each unit shall have a distinguishable roofline. All rooflines shall be varied with architectural features such as offsets, roof-breaks and/or dormers. All eaves shall be a minimum of fifteen (15) inches wide.
- I. All parking shall be provided in the rear of the buildings. Half of the parking shall be provided in open, surface parking lots and half of the parking shall be provided in detached shared community garages of no more than five (5) vehicles.
- J. All parking areas shall be landscaped with an appropriate mix and quantity of plant material including canopy trees, evergreen and deciduous shrubs and groundcover such that the resulting planting softens the visual appearance of the parking lot, screens the view of the parking from public spaces, and adds shade to mitigate the heat island effect.
- K. The architectural design of the units shall be consistent with the historic character of the neighborhood. At least one architectural articulation, otherwise known as a building façade offset, or roof break shall occur on every elevation of each townhouse unit which faces a public street. No blank walls are permitted on any facade of any unit. End units shall include architectural modulation and detail on

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all exposed facades – front, side and rear. Examples of architectural modulation include architectural elements such as, but not limited to bay windows, wrapped porches and dormers.

- L. Review and recommendation by the Borough’s Architectural Review Committee shall be required.
- M. Twenty percent (20%) of the units shall be made available to low- and moderate-income households as defined and regulated by the Affordable Housing Regulations, Article XXIII of this chapter, UHAC and the Council on Affordable Housing (COAH).
- N. The developer shall market the affordable housing units in conformance with the Borough's adopted affirmative marketing plan.
- O. The affordable units shall be developed pursuant to Riverton's Affordable Housing Regulations, Article XXIII of this Land Use Code.

**Section 4. BROAD STREET AFFORDABLE HOUSING OVERLAY ZONE:**

§ 128-32 shall be amended to add § 128-32E as follows:

- E. Affordable housing apartment development, in accordance with the provisions of §128-39.7 Broad Street Affordable Housing Overlay Zone.

§ 128-39.7 shall be added as follows:

**§ 128-39.7 Broad Street Affordable Housing Overlay.**

In specific areas of the Zoning Map, affordable housing apartment developments must be developed under the Broad Street Affordable Housing Overlay when the zoning district is redeveloped. Under the Broad Street Affordable Housing Overlay the following conditions shall apply:

- A. The Broad Street Affordable Housing Overlay may be exercised as an option in the absence of redevelopment plans. Implementation of the Overlay Zone in the Neighborhood Business Zone is not required when there is a simple change of use or ownership. Implementation of the Overlay Zone in the General Business Zone is not required when there is a simple change of ownership; it is required when there is a simple change of use.
- B. All commercial uses permitted in the underlying zone, either NB Neighborhood Business Zone or GB General Business Zone as may apply, shall also be permitted under the Broad Street Affordable Housing Overlay, however, commercial uses shall only be permitted on the first floor.

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- C. Only residential apartments may be located on the second floor.
- D. A maximum of twelve (12) apartments may be developed in the area designated on the Borough Tax Map as Block 701, Lots 35, 36, 37, 38 and 39 and located within the NB Neighborhood Business Zone.
- E. A maximum of nine (9) apartments may be developed in the area designated on the Borough Tax Map as Block 902, Lots 4, 14 and 15 and located within the NB Neighborhood Business Zone.
- F. A maximum of twelve (12) apartments may be developed in the area designated on the Borough Tax Map as Block 1500, Lot 3 otherwise known as p/o Block 1500, Lot 2 and located within the GB General Business Zone.
- G. The maximum building height shall be two (2) stories.
- H. The minimum size of any apartment shall be 800 square feet.
- I. Commercial parking standards under the Broad Street Affordable Housing Overlay shall be 2.5 spaces per 1,000 square feet of commercial space. Residential parking standards shall comply with RSIS standards. Shared parking between residential and commercial uses shall be permitted.
- J. Twenty percent (20%) of the residential units shall be made available to low- and moderate-income households as defined and regulated by the Affordable Housing Regulations, Article XXIII of this chapter, UHAC and the Council on Affordable Housing (COAH).

**Section 5. BAPTIST HOME AFFORDABLE HOUSING OVERLAY ZONE.**

§ 128-22B shall be amended to add (5) as follows:

- (5) Affordable housing development, in accordance with the provisions of §128-39.8 Baptist Home Affordable Housing Overlay Zone.

§128-39.8 shall be added as follows:

**§ 128-39.8 Baptist Home Affordable Housing Overlay.**

In specific areas of the Zoning Map, affordable housing development must be developed under the Baptist Home Affordable Housing Overlay when the designated area is redeveloped. Under the Baptist Home Affordable Housing Overlay the following conditions shall apply:

- A. Any redevelopment of Block 304, Lots 1, 4, 5, and 6 located within the R-15 Residential Zoning District must occur within the existing principal structure. The exterior of the building, its size, massing, configuration, architectural character,

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fenestration and facades shall remain substantially unchanged. Interior spaces may be modified.

- B. A maximum of sixteen (16) residential units may be developed within the principle structure.
- C. Parking shall be provided in accordance with Residential Site Improvement Standards.
- D. Twenty percent (20%) of the residential units shall be made available to very low, low- and moderate-income households as defined and regulated by the Affordable Housing Regulations, Article XXIII of this chapter, UHAC and the Council on Affordable Housing (COAH).

**Section 6. BOROUGH-WIDE MANDATORY AFFORDABLE HOUSING SET-ASIDE ORDINANCE.**

Article XXIV Affordable Accessory Apartments and § 128-118 shall be replaced with the following

**Article XXIV Borough-Wide Mandatory Affordable Housing Set-Aside**

**§ 128-118 Regulations.**

This section is intended to provide assurances that low and moderate-income units (“affordable housing units”) are created with controls on affordability over time and that low and moderate-income households shall occupy those units. These requirements shall apply to new residential development anywhere in the Borough of Riverton.

To insure realistic opportunities for the creation of affordable housing, any residential development of six (6) or more units that occurs at a density of six (6) units per acre or more shall be required to provide a minimum affordable housing set-aside of twenty percent (20%). This is a mandatory requirement for residential development that is created through any Planning Board action on subdivision or site plan applications, municipal zoning, use or density variance applications, as well as redevelopment plan or rehabilitation plan applications. All new affordable housing units must comply with all applicable affordable housing regulations of this ordinance including the requirements of the Uniform Housing Affordability Controls. This mandatory set-aside requirement does not give any developer the right to any such rezoning, variance or other relief, nor does it establish any obligation on the part of the Borough of Riverton to grant such rezoning, variance or other relief absent the requisite planning justifications and proofs as stipulated in the Municipal Land Use Law.

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**Section 7. Affordable Housing Development Fees.** Article XXV Affordable Housing Development Fees and § 128-119 through § 128-126 shall be replaced with the following:

**Article XXV AFFORDABLE HOUSING DEVELOPMENT FEES**

§ 128-119 Purpose and Basic Requirements.

A. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

B. COAH was authorized by P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7) to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal Affordable Housing Trust Funds and corresponding spending plans. Municipalities that are under the jurisdiction of COAH or a court of competent jurisdiction and have a COAH or Court-approved spending plan may retain fees collected from nonresidential development.

C. In re: adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the New Jersey Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal Affordable Housing Trust Funds to implement municipal Third Round Fair Share Plans through July 1, 2025, are under the Court's jurisdiction and are subject to approval by the Court.

D. This chapter establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this chapter shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

E. This chapter became effective when COAH approved the Borough's development fee ordinance and remains effective pursuant to the Superior Court's jurisdiction in accordance with N.J.A.C. 5:93-8.

F COAH approved the Borough's initial Spending Plan on November 1, 2000. Upon the entry of an order granting an unconditional Final Judgment of Compliance and Repose to Riverton, Riverton may spend development fees in conformance with N.J.A.C. 5:93-8.

§ 128-120 Definitions.

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

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**AFFORDABLE HOUSING DEVELOPMENT**

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, inclusionary development, affordable housing overlay zones or an alternative living arrangement facility.

**COAH or THE COUNCIL**

The New Jersey Council on Affordable Housing established under the Fair Housing Act.

**DEVELOPER**

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

**DEVELOPMENT FEE**

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

**EQUALIZED ASSESSED VALUE**

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

**GREEN BUILDING STRATEGIES**

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

§ 128-121 Residential development fees.

A. Imposed fees.

- (1) Within the Borough, in all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal

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1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

**B. Eligible exactions, ineligible exactions and exemptions for residential development.**

- (1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Developers of one or two owner-occupied dwelling units, residential structures demolished and replaced as a result of a natural disaster, green buildings, etc., shall be exempt from paying a development fee.

§ 128-122 Nonresidential development fees.

**A. Imposed fees.**

- (1) Within the Borough, in all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and

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improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

**B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.**

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent development fee, unless the development is part of a mixed-use affordable housing overlay zone or otherwise exempted below.
- (2) The two-and-one-half-percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Riverton as a lien against the real property of the owner.

**§ 128-123 Collection procedures.**

**A.** Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.

**B.** For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption," to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify

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exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

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

E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the Borough of Riverton fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).

H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

I. Appeal of development fees.

(1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Riverton. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

(2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Riverton. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law,

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N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 128-124 Affordable Housing Trust Fund.

A. It is hereby reaffirmed that the Borough has created a separate, interest-bearing Housing Trust Fund to be maintained by the Borough Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (1) Payments in lieu of on-site construction of affordable units;
- (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
- (3) Repayments from affordable housing program loans;
- (4) Recapture funds;
- (5) Proceeds from the sale of affordable units; and
- (6) Any other funds collected in connection with Riverton's affordable housing program.

C. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court.

§ 128-125 Use of funds.

A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the Court to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.

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B. Funds shall not be expended to reimburse the Borough for past housing activities.

C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.

- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
- (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16.

E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set forth in the Court-approved April 29, 2019, executed settlement agreement with Fair Share Housing Center. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.

F. Consistent with the terms and conditions of the Borough's Settlement Agreement with Fair Share Housing Center dated March 4, 2019 as amended, the Borough has set aside and will continue to reserve the sum of \$50,000 for the benefit of a potential overlay inclusionary developer(s). The reserved sum of \$50,000 will be available to these developer(s) as a financial incentive to create one (1) very low income unit when only one (1) or two (2) affordable housing units are proposed in any of the overlay zones outlined in this Ordinance. In the event the Borough is unsuccessful in attracting any overly inclusionary developer(s) to utilize the reserved funds within twenty-four (24) months of the date of the adoption of this Ordinance, the Borough commits to immediately revisit the expenditure of these reserved

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funds so the same will be expended towards the creation of one (1) very low income affordable housing unit.

§ 128-126 Monitoring.

On or about April 29 of each year through 2025, the Borough of Riverton shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs (DCA), COAH, or Local Government Services (LGS), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or LGS. This reporting shall include an accounting of all Housing Trust Fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Riverton's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

§ 128-126.1 Ongoing collection of fees.

The ability for the Borough of Riverton to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless Riverton has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment Action, and has received the Court's approval of its development fee ordinance. If the Borough of Riverton fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). The Borough of Riverton shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Borough of Riverton retroactively impose a development fee on such a development. The Borough of Riverton shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

**Section 8.**        **Repealer.**        All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**Section 9.**        **Severability.**        If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 10.**       **Effective Date.**        This Ordinance shall take effect upon passage and publication as provided by law.

**O-2019-06  
BOROUGH OF RIVERTON**

Approved for introduction at the regular meeting of the Borough of Riverton Mayor and Council on **September 5, 2019** Public Notice of the second reading and public hearing will be forthcoming.

RECORDED VOTE	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BIANCHINI						
CORBI						
DEGEORGE						
FULLERTON						
MILLS						
QUINN						
MAYOR (TIE)						

Approved for final adoption at the regular meeting of the Borough of Riverton Mayor and Council on **September 24, 2019** after a public hearing was held. Public Notice was given for the public hearing by being published in the Burlington County Times on \_\_\_\_\_.

RECORDED VOTE	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BIANCHINI						
CORBI						
DEGEORGE						
FULLERTON						
MILLS						
QUINN						
MAYOR (TIE)						

**ATTEST:**

**SIGNED:**

\_\_\_\_\_  
**Michelle Hack, RMC, Borough Clerk**

\_\_\_\_\_  
**Suzanne Cairns Wells, Mayor**

DATE OF FINAL PUBLICATION: \_\_\_\_\_

**BOROUGH OF RIVERTON**  
**Ordinance No. O-2019-07**

**AN ORDINANCE OF THE BOROUGH OF RIVERTON, BURLINGTON COUNTY,  
REPEALING AND REPLACING ARTICLE XXIII “AFFORDABLE HOUSING  
REGULATIONS” OF CHAPTER 128 ZONING OF THE BOROUGH CODE TO  
ADDRESS THE REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY  
REGARDING COMPLIANCE WITH THE BOROUGH’S FAIR SHARE AFFORDABLE  
HOUSING OBLIGATIONS**

**WHEREAS**, the Borough of Riverton (the “Borough”) entered into a Settlement Agreement with Fair Share Housing Center, Inc., dated March 4, 2019, agreeing and committing to adopt the requisite Ordinances and municipal planning documents, and to take such other action as necessary to insure that the Borough has removed all legal or regulatory impediments to the construction of the Borough’s fair share of affordable housing within the Borough; and

**WHEREAS**, pursuant to the conditions of the Borough’s Order of Fairness and Compliance dated April 29, 2019, finding that the Settlement Agreement is fair and reasonable, and adequately protects the interest of low and moderate income persons within the Borough’s housing region based upon the criteria set forth in *East/West venture v. Borough of Fort Lee*, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel Litigation, the Borough Council wishes to repeal and replace the Affordable Housing Regulations of the Borough, as contained in Article XXIII of Chapter 128 of the Borough Code to better serve the Borough in implementing its affordable housing plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Riverton, County of Burlington and State of New Jersey that the Riverton Borough Code be amended as follows:

**Section 1.** Chapter 128 of the Riverton Borough Code, Article XXIII (Affordable Housing Regulations) shall be repealed and replaced as follows:

**§ 128-113. Monitoring and Reporting Requirements**

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

- A. Beginning on April 29, 2020, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (NJDC), Council on Affordable Housing (COAH), or Local Government Services (NJLGS), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and

posted on the municipal website, using forms developed for this purpose by NJDCA, COAH, or NJLGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- B. Beginning on April 29, 2020, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity with the Borough through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for the purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- C. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether and unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity. Any interested party may by motion request a hearing before the Court regarding these issues.
- D. By April 29, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

**§ 128-114. 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 Borough to be responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

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

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

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; 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 Borough’s fair share obligation, and includes, but is not limited to, an inclusionary development or a group home.

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

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

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

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heating 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 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 Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-3012, et seq.)

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

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

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

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed

development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

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

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

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

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

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

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

“Median income” means the median income by household size for the applicable housing region, as adopted annually by the Borough pursuant to this ordinance, by COAH or a successor entity approved by the Court.

“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 regional median household income by household size.

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

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between spouses; 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 or a successor entity.

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

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

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

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

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

### **§ 128-115. Applicability**

- A. The provisions of the Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Riverton pursuant to the Borough’s most recently adopted Housing Element and Fair Share Plan.
- B. Moreover, this Ordinance shall apply to all developments that contain very low, low and moderate-income housing units, including any currently unanticipated future development that will provide very-low, low and moderate-income housing units.
- C. Where applicable with the Borough, this mandatory set-aside requirement of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent, for any multi-family residential development of at least five (5) units created through any Planning Board action on subdivision or site plan applications; municipal zoning; use or density variance; redevelopment plan or rehabilitation plan that provides a substantial density increase resulting in a minimum density at or above six (6) units per acre (or other compensation benefit). This does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Riverton Borough to grant such rezoning, variance or other relief.

### **§ 128-115.1 Alternative Living Arrangements (Group Homes)**

- 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 arrangements.

**§ 128-115.2 Phasing Schedule for Inclusionary Zoning**

In inclusionary developments the following schedule shall be followed:

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

**§ 128-115.3 New Construction**

To implement the Borough’s fair share plan in a manner consistent with the terms of the settlement agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, an affordable housing overlay zone for inclusionary zoning shall be permitted on the properties identified in the Borough’s Fair Share Plan per the terms of the settlement agreement.

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

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low- income units (affordable to a household earning 30 percent or less of regional median income by household size), with half of the very low-income units being available to families. The very low-income units shall be counted as part of the required number of low income units within the development.

2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or 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 low- and moderate-income units;
  - b) At least 30 percent of all low and moderate-income units shall be two bedroom units;
  - c) At least 20 percent of all low and moderate-income units shall be three bedroom units; and
  - d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate-income limits 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 and the following:
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - a) An adaptable toilet and bathing facility on the first floor; and
  - b) An adaptable kitchen on the first floor; and
  - c) An interior accessible route of travel on the first floor; and
  - d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - e) If 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 Riverton Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
  - i) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - ii) To this end, the builder of restricted units shall deposit funds within the Borough of Riverton's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
  - iii) The funds deposited under paragraph f) ii) above shall be used by the Borough of Riverton for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Riverton for the conversion of adaptable to accessible entrances.
  - v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7

#### C. Design:

1. In inclusionary developments, to the extent possible, low and moderate-income units shall be integrated with the market units.

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

D. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein.

“Regional income limits shall be established for the region that the Borough is located within (i.e. Region 5) 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 Borough’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.”

2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate income units, provided that at least 13 percent of all low and moderate-income units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability

average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age- restricted developments, the following standards shall be used:
  - a) A studio shall be affordable to a one-person household;
  - b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - c) A two-bedroom unit shall be affordable to a three-person household;
  - d) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - e) A four-bedroom unit shall be affordable to a six-person household.
  
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age- restricted developments, the following standards shall be used:
  - a) A studio shall be affordable to a one-person household;
  - b) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
  
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80- 26.3, as may be amended and supplemented.
  
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26 .3, as may be amended and supplemented.

9. The price of owner-occupied low and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
  
10. The rents of very low, low and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

#### **§ 128-115.4 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 HUD for the Section 8 program.

#### **§ 128-115.5 Occupancy Standards**

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

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

#### **§ 128-116. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C.5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Borough 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, upon the first non-exempt sale after the unit' s release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
  
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
  
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.S(a), as may be amended and supplemented.

**§ 128-116.1 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 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 128-116.4.

**§ 128-116.2 Buyer Income Eligibility**

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80 -26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- 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 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.

**§ 128-116.3 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).

**§ 128-116.4 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 add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the 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.

### **§ 128-116.5 Control Periods for Restricted Rental Units**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Riverton Borough 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 Burlington. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - 1. Sublease or assignment of the lease of the unit;
  - 2. Sale or other voluntary transfer of the ownership of the unit; or
  - 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

### **§ 128-116.6 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 of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

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

**§ 128-116.7 Tenant Income Eligibility**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A.1. through B.5. above with the Administrative Agent, who shall counsel the household on budgeting.

**§ 128-117. Municipal Housing Liaison**

- A. The Borough of Riverton shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Riverton Borough shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough, including the following responsibilities which may not be contracted out to the Administrative Agent:
1. Serving as Riverton's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  2. Monitoring the status of all restricted units in Riverton's Fair Share Plan;
  3. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
  4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the

Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### **§ 128-117.1 Administrative Agent**

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The 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 includes:

#### A. Affirmative Marketing:

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

#### B. Household Certification:

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

7. Notifying the following entities of the availability of affordable housing units in the Borough: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Southern Burlington County Branch of the NAACP, Willingboro NAACP, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries (LSM) and the Burlington County Community Action Program (BCCAP).

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 Burlington County Register of Deeds or Burlington 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 Rerentals:

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 low (or very low) and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling

price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;·

3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development , written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the 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 municipality'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 Borough 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 the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
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.

## **§ 128-117.2 Affirmative Marketing Requirements**

- A. The Borough of Riverton 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 5 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 5, comprised of Burlington, Camden, and Gloucester Counties.
- D. The municipality 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 rerentals. The Administrative Agent designated by the Borough of Riverton shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the 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 municipality in which the units are located; /and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

- I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Borough, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Southern Burlington County Branch of the NAACP, Willingboro NAACP, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries (LSM) and the Burlington County Community Action Program (BCCAP).
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

### **§ 128-117.3 Enforcement of Affordable Housing Regulations**

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units, the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
    - a) A fine of not more than \$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 low or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Riverton Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- c) In the case of an Owner who has rented a low or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
- a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

- d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low-and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- e) Failure of the low and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low and moderate- income unit as permitted by the regulations governing affordable housing units.
- f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

#### **§ 128-117.4 Appeals**

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

**Section 2. Repealer.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 4. Effective Date.** This Ordinance shall take effect upon passage and publication as provided by law.

Approved for introduction at the regular meeting of the Borough of Riverton Mayor and Council on **September 5, 2019** Public Notice of the second reading and public hearing will be forthcoming.

RECORDED VOTE	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BIANCHINI						
CORBI						
DEGEORGE						
FULLERTON						
MILLS						
QUINN						
MAYOR (TIE)						

Approved for final adoption at the regular meeting of the Borough of Riverton Mayor and Council on **September 24, 2019** after a public hearing was held. Public Notice was given for the public hearing by being published in the Burlington County Times on \_\_\_\_\_.

RECORDED VOTE	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BIANCHINI						
CORBI						
DEGEORGE						
FULLERTON						
MILLS						
QUINN						
MAYOR (TIE)						

**ATTEST:**

**SIGNED:**

\_\_\_\_\_  
**Michelle Hack, RMC, Borough Clerk**

\_\_\_\_\_  
**Suzanne Cairns Wells, Mayor**

DATE OF FINAL PUBLICATION: \_\_\_\_\_

**RESOLUTION NO. 08- 2019**

**RESOLUTION OF THE PLANNING BOARD  
OF THE BOROUGH OF RIVERTON, COUNTY OF BURLINGTON  
FINDING BOROUGH ORDINANCE NO. O-2019-06, THE INCLUSIONARY  
ORDINANCE,  
AND BOROUGH ORDINANCE O-2019-07, THE FAIR SHARE ORDINANCE,  
AMENDING CHAPTER 128 OF THE RIVERTON BOROUGH CODE  
ENTITLED “ZONING,”  
CONSISTENT WITH THE MASTER PLAN OF THE  
BOROUGH OF RIVERTON**

**WHEREAS**, pursuant to the Municipal Land Use Law of the State of New Jersey (*N.J.S.A.* 40:55D-26 and 64), the Planning Board of the Borough of Riverton (the “Board”) is obligated to review any and all proposed land use control ordinances and make a report of any inconsistencies with the Master Plan prior to adoption by the Borough Council of the Borough of Riverton;

**WHEREAS**, at its September 5, 2019 meeting, the Borough Council introduced Ordinance O-2019-06, entitled “AN ORDINANCE OF THE BOROUGH OF RIVERTON, BURLINGTON COUNTY, AMENDING CHAPTER 128 (“ZONING”), ARTICLE XA (“AFFORDABLE HOUSING AH DISTRICT”), ARTICLE X (“PARKS P DISTRICT”), ARTICLE IX (“NEIGHBORHOOD BUSINESS NB DISTRICT”), ARTICLE XB (“OVERLAY ZONES”), ARTICLE XXIV (“BOROUGH WIDE MANDATORY AFFORDABLE HOUSING SET-ASIDE”) AND ARTICLE XXV (“AFFORDABLE HOUSING DEVELOPMENT FEES”), OF THE BOROUGH CODE OF RIVERTON TO ADDRESS THE REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY REGARDING COMPLIANCE WITH THE BOROUGH’S FAIR SHARE AFFORDABLE HOUSING OBLIGATIONS” (the “Inclusionary Ordinance”) amending **Chapter 128** (Zoning) of the Borough Code, and has referred the Inclusionary Ordinance to the Board for the Board’s Master Plan consistency review and recommendation;

**WHEREAS**, the Borough Council also introduced at its September 5, 2019 meeting,

Ordinance O-2019-07, entitled “AN ORDINANCE OF THE BOROUGH OF RIVERTON, BURLINGTON COUNTY, REPEALING AND REPLACING ARTICLE XXIII “AFFORDABLE HOUSING REGULATIONS” OF CHAPTER 128 ZONING OF THE BOROUGH CODE TO ADDRESS THE REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY REGARDING COMPLIANCE WITH THE BOROUGH’S FAIR SHARE AFFORDABLE HOUSING OBLIGATIONS” (the “Fair Share Ordinance”), amending **Chapter 128** (Zoning) **Article XXIII** (Affordable Housing Regulations), and has referred the Fair Share Ordinance to the Board for the Board’s Master Plan consistency review and recommendation;

**WHEREAS**, through this resolution, the Planning Board wishes to memorialize its findings concerning the review and analysis of the proposed amendments to the Borough’s Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE PLANNING BOARD OF THE BOROUGH OF RIVERTON, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT:**

1. The amendments to Chapter 128 of the Zoning Ordinance of the Borough of Riverton, as set forth in ordinances introduced by the Borough Council on September 5, 2019 as the Inclusionary Ordinance and the Fair Share Ordinance, having been previously reviewed by the Consulting Engineer, Planner and Solicitor to the Planning Board and no objection having been identified, are hereby found by this Board to be consistent with the Master Plan of the Borough of Riverton.

The amendments set forth in the Inclusionary Ordinance and the Fair Share Ordinance are required to implement the affordable housing mechanisms included in the Housing Element and Fair Share Plan of the Borough of Riverton, adopted by the Planning Board on August 27, 2019, and endorsed by the Borough Council on August 27, 2019, to satisfy the requirements of the New

Jersey Supreme Court in *In Re Adoption of N.J.A.C 5:96 and 5:97 by New Jersey Council on Affordable Housing*, 221 N.J. 1 (2015), and are, therefore, consistent with the Housing Element and Fair Share Plan of the Borough's Master Plan.

3. This Resolution shall constitute the report of the Planning Board required pursuant to the Municipal Land Use Law (*N.J.S.A. 40:55D-26*) for the Planning Board's review of the proposed Borough's Inclusionary and Fair Share Ordinances.

4. The Planning Board's Solicitor, Consulting Engineer, Planner and Board Secretary are hereby further authorized to undertake any and all action to forward this Resolution to the Borough Council for their consideration prior to adoption of the Inclusionary Ordinance and the Fair Share Ordinance.

5. This Resolution shall take effect immediately.

**MOTION:** \_\_\_\_\_ **SECOND:** \_\_\_\_\_

**ROLL CALL:**

**AYES:** \_\_\_\_\_  
\_\_\_\_\_

**NAYS:** \_\_\_\_\_  
\_\_\_\_\_

## **CERTIFICATION**

**I, MICHELLE HACK**, Secretary of the Planning Board of the Borough of Riverton, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and accurate copy of the resolution adopted by the Planning Board of the Borough of Riverton, at its Special Meeting held on September 24, 2019 at The Riverton School, 600 Fifth Street, Riverton, at 7:00 p.m.

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**Michelle Hack**  
**Planning Board Secretary**