

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO. O-11-2016-037

**ORDINANCE OF THE MONROE TOWNSHIP COUNCIL
REPEALING, REPLACING AND AMENDING CERTAIN PROVISIONS
OF CHAPTER 131-1, *ET SEQ.*, OF THE AFFORDABLE HOUSING
ORDINANCE OF THE TOWNSHIP OF MONROE TO ADDRESS THE
REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM
HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING
COMPLIANCE WITH THE TOWNSHIP'S AFFORDABLE HOUSING
OBLIGATIONS**

WHEREAS, by Ordinance O-7-2016-024, Chapter 131 of the Code of the Township of Monroe ("Monroe") was amended to conform with The Housing Element and Fair Share Plan of the Monroe Township Master Plan; and

WHEREAS, that Ordinance was reviewed by the Court and Special Master in connection with the matter entitled IMO Application of the Township of Monroe for Substantive Certification of its Obligations Under the Fair Housing Act, Docket No. MID-L-3365-15, in which Monroe sought a Judgment of Compliance and Repose; and

WHEREAS, the Judgment was entered on October 5, 2016, subject to Monroe fulfilling certain conditions including the following further amendment to Chapter 131;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Monroe, Middlesex County, New Jersey, that Chapter 131 of the Code of the Township of Monroe, entitled "Affordable Housing," is hereby further amended to include provisions addressing the Township of Monroe's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and in accordance with the Settlement Agreement entered into by the parties to IMO Application of the Township of Monroe for Substantive Certification of its Obligations Under the Fair Housing Act, Docket No.: MID-L-3365-15, and consistent with N.J.A.C. 5:93-1 *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units.

The Township of Monroe Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, *et seq.* The Housing Element and Fair Share Plan has been endorsed by the governing body. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C.5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985. The Township of Monroe shall file such annual and periodic monitoring reports as directed by the Court regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan, as more fully set forth in Section 131-5.

BE IT FURTHER ORDAINED AS FOLLOWS:

A. Chapter 131 is amended as follows:

Section 131-1 shall be repealed and replaced with the following:

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Monroe pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
2. In addition, any property in the Township of Monroe that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. The determination of a "sufficient

compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.

3. The following sections shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

2. Section 131-2 shall be repealed and replaced with the following:

§ 131-2. 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 Sub-code, N.J.A.C. 5:23-7.

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

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

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

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

“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.

“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 wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age 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 heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and

that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a 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-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 requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

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

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

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

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

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

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

“Market-rate units” means housing not restricted to 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 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 median household income.

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

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“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 Sub-code, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHGRP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, *et seq.*

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

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

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

3. Section 131-3 shall be amended to read as follows:

§ 131-3. Affordable Housing Board established. [Amended 5-4-92 by Ord. No. 0-5-92-015]

A. Membership

1. There is hereby established a Monroe Township Affordable Housing Board, which shall be composed of five (5) members and two (2) alternate members appointed by the Mayor with the advice and consent of the Township Council. The five (5) regular members shall consist of:
 - a. One (1) municipal employee;
 - b. One (1) member of the Township Council;
 - c. Three (3) citizens of the Township.

The two (2) alternate members shall be citizens of the Township.

Members and alternates shall serve for two year terms, with (2) of the initial appointments, as determined by the Mayor, to be for one (1) year.

- B. The Mayor shall appoint the Chairperson of the Board from among its members. The Board shall organize and conduct its activities under the supervision of the Mayor.
- C. The Municipal Housing Manager and Municipal Housing Liaison appointed pursuant to § 131-13 shall serve as staff to the Board.

4. Section 131-4 shall be amended to read as follows.

§ 131-4. Municipal Housing Manager

The Municipal Housing Manager shall be appointed by the Mayor.

5. Section 131.5 shall be amended to read as follows:

§ 131-5. Duties of the Affordable Housing Board.

- A. The Board shall be the primary administrative mechanism responsible for assuring that low and moderate income housing units developed or rehabilitated in the Township remain affordable to low and moderate income households, as required by N.J.A.C. 5:93-1, *et seq.*
- B. The Board shall supervise the implementation of the Township's affirmative marketing program by the designated Administrative Agent for the purposes of marketing the designated low and moderate income units to eligible households in Housing Region 3, comprised of Middlesex, Somerset and Hunterdon Counties.
- C. The Board shall assist the Administrative Agent in screening and qualifying prospective purchasers and tenants of designated low and moderate income housing.
- D. The Board shall review and comment to the Planning Board on a developer's affordable housing plan submitted with an application for development in any of the Township zoning districts designated and promulgated for the creation of affordable housing.
- E. The Board shall enforce controls on resales and rentals of designated low and moderate income housing units.
- F. The Board shall provide an annual written report to the Mayor, Township Council and Planning Board on its activities and the progress and problems in providing affordable housing and assuring the continued affordability of this housing, and on the success of its affirmative marketing efforts. The Board shall also prepare or cause to be prepared, and shall file the following reports as required by the Court:
 - 1. On the first anniversary of the entry of the Order granting Monroe a Final Judgment of Compliance and Repose, and every anniversary thereafter through the end of the Repose period, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. 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.
 - 2. On the first anniversary of the entry of the Order granting Monroe a Final Judgment of Compliance and Repose, and every anniversary thereafter through the end of the Repose period, the Township shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center.
 - 3. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township shall post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.
 - 4. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting Monroe a Final Judgment of Compliance and Repose, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation.
- G. The Board shall meet quarterly and may meet more frequently as needed. The Chairperson of the Board may call special meetings of the Board.

- H. The Board may adopt its own rules and guidelines.

Section 131-5.1 shall be repealed and replaced with the following:

§ 131-5.1. Affirmative marketing program.

The Board shall supervise the implementation of the Township's Affirmative Marketing Program.

6. Section 131-6 shall be amended as follows:

§ 131-6. Screening and qualification of prospective purchasers and tenants.

- A. The Township Affordable Housing Board shall screen and determine whether prospective purchasers and tenants qualify for the new designated low and moderate income units built within the Township. Qualification criteria shall include household income, place of residence and place of employment.
- B. The Board shall maintain a registry of income-eligible applicants for purchase or rental of low and moderate income housing.
- C. Residency and veteran's preference.
 - 1. An occupancy preference shall be provided to low and moderate income households that reside or work in the West Central Housing Region, Region 3, which includes Middlesex, Somerset and Hunterdon Counties, for new low and moderate housing units.
 - 2. An occupancy preference shall be provided to low and moderate households that reside within Monroe Township for low and moderate income units created as a result of the Township's rehabilitation program.
 - 3. An occupancy preference shall be provided to low and moderate income households headed by honorably discharged veterans for all units created under the Township's Affordable Housing Plan.
- D. The Board shall recommend eligible prospective purchasers and tenants to the developer(s) of low and moderate income housing,
- E. Occupancy Standards. In referring certified households to specific restricted units, the Administrative Agent and/or Board shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sexes with separate bedrooms;
 - 3. Provide separate bedrooms for parents and children; and
 - 4. Prevent more than two persons from occupying a single bedroom.

7. Section 131-7 shall be repealed and replaced with the following:

§ 131-7. 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.

§ 131-7.1. Buyer Income Eligibility and Verification

- 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. Income verification. In placing households in low and moderate income units, the Township and its Administrative Agent shall utilize the following verification and certification procedures:
 1. Every household member eighteen (18) years of age or over who will live in the affordable unit and receives income shall be required to provide income documentation as applicable and determined by the reviewer for the Board. This includes income received by adults on behalf of minor children for their benefit. Household members eighteen (18) years of age or over not receiving income must produce documentation of current status.
 2. Verification may include, but is not limited to, the following:
 - (a) Four (4) consecutive pay stubs including overtime, bonuses or tips dated within one hundred twenty (120) days of the interview date or a letter from employer stating present annual income figure as projected annually;
 - (b) A copy of regular IRS Form 1040 (tax computation form), 1040A or 1040 EZ as applicable and State Income Tax returns filed for each of the three (3) years prior to the date of interview;
 - (c) A letter or appropriate reporting form verifying benefits such as Social Security, Unemployment, Welfare, Disability or Pension income (monthly or annually);
 - (d) A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony and child support;
 - (e) Reports that verify income from assets to be submitted by banks or other financial institutions managing trust funds, money market accounts, certificates of deposit, stocks or bonds;
 - (f) Evidence or reports of income from assets such as real estate or businesses that are directly held by any household member;
 - (g) A notarized statement of explanation in such form as to be satisfactory to the reviewer.
 3. Generally, sources of annual income shall be based on regular income reported to the IRS and which can be utilized for mortgage approval. Household annual gross income shall be calculated by projecting current gross income over a twelve (12) month period.
 4. Income includes, but is not limited to, wages, salaries, tips, commissions, alimony, regularly scheduled overtime, pensions, social security, unemployment compensation, AFDC, verified regular child support, disability, net income from business or real estate and funds, stocks and bonds and imputed income from non-income producing assets such as equity in real estate.
 5. Assets not earning a verifiable income shall have an imputed interest income using a current average savings interest rate. Assets not earning income include present real estate equity. Applicants owning real estate must produce documentation of a market value appraisal and outstanding mortgage debt. The difference will be treated as the monetary value of the asset and the imputed interest added to income.

6. Income from assets that have delayed earnings, such as IRAs or annuity programs shall not be included in current income until such payments are being received. However, these assets must be reported and verified.
 7. Net rent from real estate is considered income after the monthly mortgage payment, including real estate taxes and insurance, is deducted. Other expenses are not deductible. In addition, the equity in the rented real estate is considered an asset and will have the imputed interest income on the calculated value of equity added to income.
 8. Income does not include payments, rebates or credits received under federal or state low income home energy assistance programs, food stamps, payments received for care of foster children, relocation assistance benefits, income of live-in attendants, scholarships, student loans, personal property such as automobiles, lump-sum additions to family assets such as inheritances, one-time lottery winnings and insurance settlements, except for additional income earned from these additions, and casual, sporadic or irregular gifts and bonuses.
 9. Standard credit information services that provide conventional credit and tenants reports may be utilized when certifying a household with required written permission from the household. An unsatisfactory credit history or credit information that demonstrates a disproportionate debt to income ratio may result in a denial of certification. Court-ordered payments for alimony or child support to another household shall be considered a regular monthly debt whether or not it is being paid regularly.
 10. At the discretion of the Board and Administrative Agent, households may also be required to produce documentation of household composition for determining the correct unit size and the applicable median income guide.
 11. A form for certification shall be prepared and signed by the Board. Only households receiving certification shall be referred to Affordable Housing units.
 12. Certified households who reject an opportunity for affordable housing may be replaced on the referral list at their request and may be re-interviewed for certification when their name appears on a listing for a subsequent unit.
 13. Certification shall be valid for no more than one hundred twenty (120) days unless a valid sales contract or lease has been executed within that time period. In this event, certification shall be valid until such time as the sales contract or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing at the request of a certified household for no more than an additional period of one hundred twenty (120) days at the discretion of the Board.
 14. Households who are denied certification may make a written request for a redetermination. Households shall be required to produce additional documentation to support their claim. Households who are denied certification a second time may request a hearing by forwarding a written request to the Board within thirty (30) days following the household's receipt of a denial notification. If a written request has not been received within the thirty (30) day time period, the ineligible determination will be final. The hearing decision shall be final.
- C. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- D. 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.
- E. 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 thirty-three (33%) percent of the household's eligible monthly income.

§ 131-7.2. 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 ninety-five (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).

8. Section 131-8 shall be repealed and replaced with the following:

§ 131-8. 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 fifty (50) years, until the Township of Monroe 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. 5:80-26.5(a), as may be amended and supplemented.

§ 131-8.1. 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.

§ 131-8.2. 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 fifty (50) years, until the Township of Monroe 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 Middlesex. A copy of the filed document shall be provided to the Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this 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.

§ 131-8.3. 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 (5%) 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 fifteen (15%) percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 131-8.4 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 thirty (30%) percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than eighty (80%) percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five

(35%) percent (forty (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 thirty (35%) percent (forty (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 thirty-five (35%) percent (forty (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.

9. Section 131-9 shall remain in full force and effect.

10. Section 131-10 shall be repealed.

11. Section 131-11 shall remain in full force and effect.

12. Section 131-12 shall remain in full force and effect.

13. Section 131-13 shall be repealed and replaced with the following:

§ 131-13. Municipal Housing Liaison.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Township of Monroe.
- B. The Municipal Housing Liaison shall be appointed by the Mayor with the advice and consent of the Council 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. The Municipal Housing Liaison in Monroe Township is hereby designated to act as liaison between the Township, the Monroe Township Affordable Housing Board, the Administrative Agent, and the Council on Affordable Housing (COAH), the Court or other appropriate supervising agency; and shall provide a monthly report to the Affordable Housing Board concerning action taken by the Administrative Agent.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Monroe, including the following responsibilities which may not be contracted out to the Administrative Agent:
 1. Serving as the Township of Monroe'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 the Township of Monroe's Fair Share Plan;
 3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;

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.
- D. Subject to the approval of the Court, the Township of Monroe shall designate an Administrative Agent to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent 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 Township Clerk, in the office of the Municipal Housing Liaison, and in the office of the Administrative Agent. The Municipal Housing Liaison shall supervise the contracting of the Administrative Agent.
- E. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.

§ 131-13.1. The Administrative Agent shall be an independent entity serving under contract to and reporting to the Affordable Housing Board. 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 Township of Monroe 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; and
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Monroe when referring households for certification to affordable units.

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 Middlesex County Register of Deeds

or Middlesex County Clerk's office after the termination of the affordability controls for each restricted unit;

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

D. Resales and Re-rentals:

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

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. In the event that the administration of low and moderate income housing in an inclusionary development is to be performed by the Administrative Agent, the payment of the Administrative Agent fee shall be the responsibility of the developer/owner of that particular inclusionary development and shall be a condition of Municipal Planning Board Approval.
4. All developers/owners of low and moderate income housing units shall be required to assist in the marketing of the affordable units in their respective developments. The cost of advertising the low and moderate income units shall be the developer's responsibility and this requirement shall be a condition of Municipal Planning Board approval.
5. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
6. 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;
7. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

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

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. In the event that the Township of Monroe enters into a contract with the Administrative Agent regarding affordable sales and rental units, all other applicable sections of this chapter shall be enforced by the Administrative Agent on behalf of the Township of Monroe.
3. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
4. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

14. The following additional provisions shall be added:

§ 131-14. Applicability

- A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Monroe pursuant to the Township's most recently adopted Housing Element and Fair Share Plan, and all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.
- B. In addition, any property in the Township of Monroe that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside of twenty (20%) percent if the affordable units will be for rent and twenty (20%) percent if the affordable units will be for sale. The determination of a "sufficient compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.

§ 131-15. Alternative Living Arrangements

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least fifty (50) year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 131-16. New Construction

A. Accessibility Requirements.

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub-Code, N.J.A.C. 5:23-7 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 b.1) through b.4) 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 b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, *et seq.*) and the Barrier Free Sub-Code, N.J.A.C. 5:23-7, or evidence that the Township of Monroe has collected funds from the developer sufficient to make ten (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 Township of Monroe's Affordable Housing Trust Fund sufficient to install accessible entrances in ten (10%) percent of the affordable units that have been constructed with adaptable entrances.
 - iii) The funds deposited under paragraph 6(b) above shall be used by the Township of Monroe 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 Township of Monroe 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 Sub-Code, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
 - vi) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Sub-Code, N.J.A.C. 5:23-7.

B. 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.

C. Distribution of low and moderate income units:

1. With the exception of inclusionary development constructed pursuant to low income tax credit regulations, at least half of all units within each inclusionary development shall be affordable to low income households.
2. With the exception of inclusionary developments constructed pursuant to low income tax credit regulations, at least half of all rental units shall be affordable to low income households.
3. With the exception of inclusionary developments constructed pursuant to low income tax credit regulations, at least one-third (1/3) of all units in each bedroom distribution, as set forth in N.J.A.C. 5:93-7.3, shall be affordable to low income households.

D. Bedroom distribution.

1. Inclusionary developments that are not restricted to senior citizens shall be structured in conjunction with realistic market demands so that:
 - a. The combination of efficiency and one-bedroom units is at least ten (10%) percent and no greater than twenty (20%) percent of the total low and moderate income units.
 - b. At least thirty (30%) percent of all low and moderate income units are two-bedroom units.
 - c. At least twenty (20%) percent of all low and moderate income units are three-bedroom units.
2. Low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of senior citizen low and moderate income units within the inclusionary development. This standard can be met by creating all one bedroom units or by creating a two-bedroom unit for each efficiency unit.

E. Construction phasing of inclusionary units. Inclusionary development shall require low and moderate income housing units to be built in accordance with the following schedule:

Minimum Percentage of Low and Moderate Income Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	<u>90</u>
	100

F. Utilities:

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

G. 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 regional income limits established by COAH or a successor entity.

2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty (60%) percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two (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 thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning thirty (30%) percent or less of the regional median income by household size, unless a higher percentage is required in Chapter 108 or has been the subject of a separate agreement with the developer. Very low income units shall be considered part of the low income housing obligation.*
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70%) percent of median income, and each affordable development must achieve an affordability average of fifty-five (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 ninety-five (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 twenty-eight (28%) percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty (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 rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine (9%) percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

§ 131-17. Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the 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 Township of Monroe 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.

§ 131-18. Appeals

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

A REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

B. 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.

C. EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SO ORDAINED, as aforesaid

LESLIE KOPPEL, Council President

RECORDED VOTE - INTRODUCTION – November 9, 2016							
COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Dipierro							

Councilman Leibowitz							
Councilwoman Schneider							
Council V. President Dalina							
Council President Koppel							

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the Regular Meeting of the Monroe Township Council on November 9, 2016. Said Ordinance will again be read and considered for final passage at a meeting of the Monroe Township Council to be held at 7:00 p.m. on December 5, 2016 in the Monroe Township Municipal Building, 1 Municipal Plaza, Monroe Township, New Jersey 08831. At said time and place all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning said Ordinance. Following the public hearing, said Ordinance shall be considered for final adoption.

PATRICIA REID, Township Clerk

RECORDED VOTE SECOND READING AND FINAL ADOPTION December 5, 2016							
COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Dipierro							
Councilman Leibowitz							
Councilwoman Schneider							
Council V. President Dalina							
Council President Koppel							

ORDINANCE NO. O-11-2016-037

**ORDINANCE OF THE MONROE TOWNSHIP COUNCIL
REPEALING, REPLACING AND AMENDING CERTAIN PROVISIONS OF
CHAPTER 131-1, *ET SEQ.*, OF THE AFFORDABLE HOUSING ORDINANCE
OF THE TOWNSHIP OF MONROE TO ADDRESS THE REQUIREMENTS OF
THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY
CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP'S
AFFORDABLE HOUSING OBLIGATIONS**

MAYORAL APPROVAL

By virtue of the Optional Municipal Charter Law of 1950 and Chapter 3, Section 19 of the Code of the Township of Monroe, my approval of this Ordinance is affected by the affixing of my signature hereto.

GERALD W. TAMBURRO, Mayor

Date Signed: _____