

**BOROUGH OF PALISADES PARK  
BERGEN COUNTY, NEW JERSEY**

**ORDINANCE #2025-1**

**AN ORDINANCE OF THE BOROUGH OF PALISADES PARK, COUNTY OF BERGEN AND STATE OF  
NEW JERSEY AMENDING THE CODE OF THE BOROUGH OF PALISADES PARK, CHAPTER 123  
ENTITLED DEVELOPMENT AND AFFORDABLE HOUSING**

**WHEREAS, ...**

**WHEREAS,** the Palisades Park Borough Planning Board will adopt 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 will be endorsed by the Borough Council. This Article implements and incorporates the 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.

**NOW, THEREFORE, BE IT ORDAINED,** by the Mayor and Council of the Borough of Palisades Park, Bergen County, New Jersey, that the General Legislation set forth in Chapter 123 entitled Development and Affordable Housing of the Code of the Borough of Palisades Park (the "Code") are hereby amended, modified and supplemented as follows:

**Section I.**

Article 3, entitled "Affordable Housing and Mandatory Set-Aside," is hereby created and added as follows:

**ARTICLE 3  
AFFORDABLE HOUSING AND MANDATORY SET-ASIDE**

**§ 123-16. Purpose and Applicability**

- A. The Code of the Borough of Palisades Park is hereby amended to include provisions addressing Palisades Park's constitutional obligation to provide for its fair share of very low-, low- and moderate-income housing, as directed by the Superior Court 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 Article is intended to provide assurances that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy those units. This Article shall apply except where inconsistent with applicable law.
- B. The provisions of this Article 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 Palisades Park pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

- C. Moreover, this Article shall apply to all developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units and including any developments funded with low-income housing tax credits.

### **§ 123-17. Definitions.**

The following terms, when used in this article, shall have the meanings given in this section:

ACT — Shall mean the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE — Shall mean constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — Shall mean the entity designated by the Borough to administer affordable units in accordance with this Article, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING — Shall mean 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 — Shall mean the average percentage of median income at which new restricted units in an affordable housing development are affordable to very low-, low- and moderate-income households.

AFFORDABLE — Shall mean a sales price or rent level that is within the means of a very low-, low-, or moderate-income household as defined in 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 — Shall mean 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, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S) — Shall mean any mechanism in a municipal fair share plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — Shall mean 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.

AGE-RESTRICTED UNIT — Shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development wherein the unit is situated are 62 years of age or older; or
- B. At least 80% of the units are occupied by one person that is 55 years of age or older; or
- C. The development has been designated by the Secretary of the United States 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.

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

ALTERNATIVE LIVING ARRANGEMENT – Shall mean a building 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 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 — Shall mean 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 — Shall mean a household that has been certified by an Administrative Agent as a very low-income household, low-income household or moderate-income household.

COAH OR THE COUNCIL – Shall mean the New Jersey Council on Affordable Housing established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

DCA — Shall mean the State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — Shall mean 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 — Shall mean any person, partnership, association, company, or corporation that is 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 to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — Shall mean 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.

DEVELOPMENT FEE — Shall mean money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

EQUALIZED ASSESSED VALUE — Shall mean 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).

FAIR SHARE PLAN – Shall mean the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93.

FHA – Shall mean the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

GREEN BUILDING STRATEGIES – Shall mean 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.

HOUSING PLAN ELEMENT – Shall mean the portion of the Borough's Master Plan required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and other legislation.

INCLUSIONARY DEVELOPMENT — Shall mean a development containing both affordable units and market-rate units. This term includes, but is not limited to new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

INCOME — Shall include revenue and receipts, actual or fairly imputed, from all sources, including but not limited to wages, interest, dividends, social security, pensions, government benefits, alimony, child support and rents from income property.

INITIAL RENTAL — Shall mean the first transfer of occupancy from a developer to a qualified renter.

INITIAL SALE — Shall mean the first transfer of title of a unit from a developer to a qualified buyer.

LOW-INCOME HOUSEHOLD — Shall mean a household with a total gross annual household income equal to 50% or less of the regional median household income by household size for the applicable housing region.

LOW-INCOME UNIT — Shall mean a restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — Shall mean 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 — Shall mean housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — Shall mean 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 — Shall mean a household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size for the applicable housing region.

MODERATE-INCOME UNIT — Shall mean a restricted unit that is affordable to a moderate-income household.

MUNICIPAL HOUSING LIAISON — Shall mean a municipal employee responsible for oversight of the municipal affordable housing program, including overseeing the administration of affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and supervising any contracted Administrative Agent.

NONEXEMPT SALE — Shall mean 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.

PRESENT NEED — Shall mean an estimate of low- and moderate-income households living in substandard housing as calculated through the use of census surrogates.

PRIOR ROUND HOUSING OBLIGATION — Shall mean the 1987 – 1999 fair share based on N.J.A.C. 5:93-1.

RANDOM SELECTION PROCESS — Shall mean 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 — Shall mean the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

REHABILITATION — Shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — Shall mean 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 — Shall mean 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 may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

SUPERIOR COURT — Shall mean the Superior Court of New Jersey.

THIRD ROUND HOUSING OBLIGATION — Shall mean the 1999 – 2025 housing obligation as determined by the Superior Court.

BOROUGH — Shall mean the Borough of Palisades Park.

BOROUGH COUNCIL — Shall mean the Borough Council of the Borough of Palisades Park.

UHAC — Shall mean the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, *et seq.*

VERY LOW-INCOME HOUSEHOLD — Shall mean a household with a total gross annual household income equal to 30% or less of the regional median household income by household size for the applicable housing region.

VERY LOW-INCOME UNIT — Shall mean a restricted unit that is affordable to a very low-income household.

VETERAN'S PREFERENCE — Shall mean a preference for very-low-, low- and moderate-income housing that is permitted by law for people that have served in the military, pursuant

to Section 311.11(j). of the FHA, which allows for a municipality to enter into an agreement with a developer to provide a preference for affordable housing to low- and moderate-income veterans who served in time of war or other emergency as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to fifty percent (50%) of the affordable units in a particular project. N.J.S.A. 52:27D-311.11(j).

**WEATHERIZATION** — Shall mean 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 the rehabilitation program.

### **§ 123-18. Rehabilitation.**

- A. Palisades Park's rehabilitation program shall be designed to renovate deficient housing units occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
1. All rehabilitated rental and owner-occupied units shall remain affordable to very low-, low-, and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.
  2. Units in a Rehabilitation Program shall be administered in accordance with the following:
    - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a very low-, low-, or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
    - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
    - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
    - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

### **§ 123-19. Mandatory Affordable Housing Set-Aside.**

- A. A mandatory affordable housing set-aside requirement shall apply beginning with the effective date of this ordinance to any new multifamily and single-family attached residential

development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units and any property in the Borough of Palisades Park that is currently zoned for nonresidential uses that is subsequently rezoned for residential purposes or receives a zoning change or a variance to permit residential development, or receives a zoning change or a density variance to permit higher residential development. The set-aside shall be twenty percent (20%) where the affordable units are provided for sale and fifteen percent (15%) where the affordable units are provided for rental.

1. All affordable housing controls and standards are subject to the rules of the Council on Affordable Housing ("COAH") or any subsequent state agency, or as approved by the Court. The development, marketing and sale of the affordable units shall be pursuant to applicable state regulations and the applicable provisions of this article, and any subsequent amendments thereto.
2. This requirement shall not impose any obligation on a development, or the nonresidential portion of a mixed-use development, that is subject to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
3. All subdivision and site plan approvals of qualifying developments shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold. The approving authority may impose any reasonable conditions to ensure such compliance.
5. The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.
6. The requirements of this set-aside shall not apply to residential expansions, additions, renovations, replacements, or any other type of residential development that does not result in a net increase in the number of dwellings of 15 or more.

#### **§ 123-20. Inclusionary Development.**

- A. Set-aside. For inclusionary projects in which the very low-, low- and moderate-income units are to be offered for sale, the appropriate set-aside percentage is 20 percent; for projects in which the very low, low and moderate units are to be offered for rent, the appropriate set-aside percentage is 15 percent.
- B. Phasing. Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment



agreement. Should a developer wish to modify this schedule, such modification must be reviewed and approved by Fair Share Housing Center and the Special Court Master prior to execution of a development or redevelopment agreement.

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

- C. Fractional Units. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. For inclusionary projects, the developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c) as increased by updated development cost documentation on file in the Borough.
- D. Off-site Units. At the Borough's sole discretion, a developer may arrange to provide some or all required affordable units at a different site than the market-rate units. In such instances, the developer shall be subject to the following provisions:
1. All provisions governing the provision of affordable units off-site shall be set forth in a developer's agreement.
  2. The calculation of the required affordable housing set-aside shall be done based on the total of all market-rate units being provided on-site plus the required affordable units being provided off-site.  
  
*Example: A developer proposes 20 market-rate for-sale units, and wishes to provide the required four affordable units off-site. The mandatory set-aside in that case shall be 20% of 24 units, or 4.8 units, with the fraction subject to the fractional payment-in-lieu provisions in Subparagraph 35-1305.c. above.*
  3. Unless otherwise specified in the developer's agreement, the affordable units must be provided according to the phasing schedule in Subparagraph 35-1305.b. above.
- E. Payments in Lieu of Construction. No developer may make a payment in lieu of constructing affordable units, except for fractional units as provided for in Subparagraph 35-1305.c., above.

F. Nothing in this Article precludes the municipality from imposing an affordable housing set-aside in accordance with applicable law in a development not required to have a set-aside pursuant to this Article.

G. Design:

1. Integration of Affordable Units. In inclusionary developments, to the extent possible, very low-, low- and moderate-income units shall be integrated with the market units, and not situated so as to be concentrated in separate building(s) or in separate area(s) or floor(s), or in less desirable locations, than the other units in the development. In buildings with multiple dwelling units, this shall mean that the very low-, low- and moderate-income units shall be generally distributed within each building with market units.
2. In inclusionary developments, the residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
3. In inclusionary developments, the very low-, low- and moderate-income units shall be no less than the largest minimum bedroom and unit square footages required under the DCA Balanced Housing and HMFA Low Income Housing Tax Credit program for bedroom sizes and unit sizes in affordable units of the same bedroom number.

**§ 123-21. New construction.**

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% of all restricted rental units within each bedroom distribution shall be very low-income units (affordable to a household earning 30% or less of regional median income by household size). 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% 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:
  - i. The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;

- ii. At least 30% of all low- and moderate-income units shall be two-bedroom units;
  - iii. At least 20% of all low- and moderate-income units shall be three-bedroom units; and
  - iv. 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 units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 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) An interior accessible route of travel between stories within an individual unit, except that if all of the terms of Subsection B(2)(a) through (d) above have been satisfied, an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entrance way as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough has collected funds from the developer sufficient to make 10% 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, each builder of income-restricted units shall deposit funds into the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- iii. The funds deposited under Subsection (f)[ii] above shall be used by the Borough 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 for the conversion of adaptable to accessible entrances to the Construction Official of the Borough.
- v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets 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 the 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 and N.J.A.C. 5:97-3.14.

C. Income limits; 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 below:

(a) Regional income limits shall be established for the region in which the Borough is located (in this case, Region 1) 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% 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% 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% 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.

- (b) The income limits are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the current fiscal year, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- (c) The regional asset limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the regional asset limit be less than that for the previous year.
- (d) In establishing sale prices and rents of affordable housing units, the Borough's administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above.
  - (i) The resale prices of owner-occupied very low-, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
  - (ii) The rent levels of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

2. The maximum rent for restricted rental units within each affordable development shall

be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% 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% of all low- and moderate- income rental units shall be affordable to very low-income households earning no more than 30% of median income, 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% of median income, and each affordable development must achieve an affordability average of 55% 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. 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 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% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowners' association fees do not exceed 28% 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% 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 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 United States. This increase shall not exceed 9% 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.

**§123-22. Utilities.**

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

**§123-23. 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.

**§123-24. Control periods for restricted ownership units and enforcement mechanisms.**

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

**§123-25. Price restrictions for restricted ownership units; homeowners' association fees; 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 homeowners' 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 § 35-1313.

**§123-26. 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 very low-income ownership units shall be reserved for households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% 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 very low-income household, 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 homeowners' association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

**§123-27. 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 a first purchase money mortgage, 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% 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).

**§123-28. 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 ten-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.

**§123-29. 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 article for a period of at least 30 years, until the 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 recorded by the developer or seller with the records office of the County of Bergen. A copy of the filed, recorded 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 article 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.

**§123-30. Rent restrictions for rental units; leases.**

- A. A written lease shall be required for all restricted rental units, except for units in assisted living residences, 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 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.
- D. The Borough of Palisades Park's Rent Control Ordinance (Chapter 15) shall not be applicable to any affordable rental units in the Borough.

**§123-31. 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% 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% 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% 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% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its continuing 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 Subsections b.1. through b.5. above with the Administrative Agent, who shall counsel the household on budgeting.

### **§123-32. Requirements for 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 State licensing/funding agency (i.e., DHS);
  2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§123-33. Municipal Housing Liaison.**

- A. The Borough of Palisades Park 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 affordable units, and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan, fulfilling monitoring and reporting, and supervising any contracted Administrative Agent. The position of Municipal Housing Liaison for the Borough was previously established by Ordinance No. 1279-11-09, which establishment is reiterated here. Compensation shall be fixed by the Governing Body at the time of appointment of the Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by resolution of the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Superior 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 Palisades Park, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - 1. Serving as Palisades Park'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 Palisades Park'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.

### §123-34. Administrative Agent.

Subject to the approval of the Superior 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 Borough Council and subject to approval of the Superior 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).

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 N.J.A.C. 5:80-26.14, 5:80-16 and 5:80-18 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;
2. Notifying the following entities of the availability of affordable housing units in the Borough of Palisades Park: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen County Urban League, Bergen County Housing Coalition, the New Jersey Housing Resource Center, and the Supportive Housing Association; and

#### B. Household certification.

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very low-, low- or moderate-income unit;
3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 *et seq.*;
5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located (Housing Region 1) comprising Bergen, Passaic, Hudson, and Sussex Counties;
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. Providing counseling or contracting to provide counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

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

E. Processing requests from unit owners.

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this article;
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 for-sale affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. The posting annually in all rental properties, including legal two-family homes, of a notice as to the maximum permitted rent for affordable units, 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 Article.
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.

**§123-35. Affirmative marketing requirements.**

- A. The Borough 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 and the FHA, 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 1, comprising the counties of Bergen, Hudson, Passaic, and Sussex, and is required to be followed throughout the period of restriction.
- C. The borough of Palisades Park hereby provides that households that live or work in Housing Region 1 shall be selected for an affordable housing unit before households from outside this region. Units that remain unoccupied after households who live or work in the region are exhausted may be offered to the households outside the region.
- D. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen County Urban league, Bergen County Housing Coalition, Supportive Housing Association and the New Jersey Housing Resource Center, <https://www.nj.gov/njhrc/>, in accordance with applicable law, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this subsection.
- E. 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 re-rentals. The Administrative Agent designated by the Borough of Palisades Park shall implement the Affirmative Marketing Plan to assure the

affirmative marketing of all affordable units.

- F. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- G. 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.
- H. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- I. 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. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.
- J. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Palisades Park, 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, Bergen County NAACP, Bergen County Urban League, Bergen County Housing Coalition, the New Jersey Housing Resource Center, and the Supportive Housing Association.

**§123-36. 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 Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a very low-, low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the 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 Borough may file a court action in Superior Court 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 Superior Court:

- (a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
  - (b) In the case of an owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Palisades Park Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - (c) In the case of an owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Superior Court.
2. The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the very low-, low- or moderate-income unit.
- (a) The judgment shall be enforceable, at the option of the Borough, by means of an execution sale by the Sheriff, at which time the very low-, low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the 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 very low-, low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Borough 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 Borough 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 Borough 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 Borough, whether such balance shall be paid to the owner or forfeited to the municipality.

- (c) Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very low-, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Borough may acquire title to the very low-, low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very low-, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the very low-, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the 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 very low-, low- and moderate- income unit as permitted by the regulations governing affordable housing units.
- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

### **§123-37. Appeals.**

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

### **§123-38. Monitoring and Reporting Requirements**

The Borough of Palisades Park 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 August 2, 2023, and on every anniversary of that date through July 1, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Committee 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 (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCOA), Committee on Affordable Housing (COAH), or Local Government Services (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 August 2, 2023, and on every anniversary of that date through July 27, 2025, the Township agrees to 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 COAH or any other forms endorsed by the Special Master and FSHC.
- C. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough posted on its municipal website, with copies 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. The posting invited any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party could by motion request a hearing before the Court regarding these issues.
- D. By September 2, 2025, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township 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.

### **Section III.**

**Severability.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this

Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

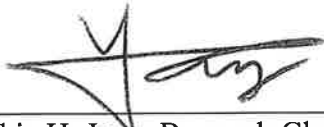
**Inconsistencies.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

**Effective Date and Scope.** This Ordinance shall immediately take effect upon its passage and publication, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

**ROLL CALL VOTE ON ADOPTION**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
KIM			X			
LEE						X
MIN	X		X			
SHIN		X	X			
VIETRI			X			
WON-YOON			X			
MAYOR (TIE-BREAK VOTE)						

ATTEST:



Sophia H. Jang, Borough Clerk



Chong Paul Kim, Mayor

First Reading: January 6, 2025  
 Second Reading: January 21, 2025

I hereby certify that the above is a true copy of Ordinance #2025-1 adopted by the Mayor and Council of the Borough of Palisades Park at a Regular Meeting held on January 21, 2025.

