

**BOROUGH OF ALLENDALE
COUNTY OF BERGEN**

ORDINANCE NO. 19-08

**AN ORDINANCE OF THE BOROUGH OF ALLENDALE, COUNTY OF BERGEN AND STATE OF
NEW JERSEY AMENDING CHAPTER 81 "AFFORDABLE HOUSING" TO THE CODE OF THE
BOROUGH OF ALLENDALE**

WHEREAS, the Mayor and Council of the Borough of Allendale, Bergen County, adopted on September 27, 2018, Ordinance No. 18-13 which repealed outdated affordable housing requirements in the Borough's Code at Article 11, "Development Fees", of Chapter 120, "Fees", and Articles XXVIII, XXXI, and XXXII of Chapter 270, "Zoning", which pertained to affordable housing, and created Chapter 81, "Affordable Housing", which codifies the rules and regulations of the Council on Affordable Housing, as modified by the September 15, 2017 Settlement Agreement with Fair Share Housing Center, in the Borough Code; and

WHEREAS, the Mayor and Council of the Borough of Allendale adopted on November 19, 2018, Ordinance No. 18-22 which made minor revisions to Chapter 81 to better serve the Borough in implementing its affordable housing plan; and

WHEREAS, pursuant to the conditions of the Borough's Conditional Judgment of Compliance and Repose entered per Court Order dated January 25, 2019, the Mayor and Council wish to again revise Chapter 81 to better serve the Borough in implementing its affordable housing plan.

NOW, THEREFORE, BE IT ORDAINED, that the Mayor and Council of the Borough of Allendale, County of Bergen and State of New Jersey that Chapter 81 of the Allendale Borough Code be amended as follows:

Section 1 – Chapter 81, "Affordable Housing," shall be amended as follows:

§81-1. Affordable Housing Obligation.

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", *N.J.A.C. 5:93 et seq.*, the Uniform Housing Affordability Controls ("UHAC"), *N.J.A.C. 5:80-26.1 et seq.*, except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1) as reflected in the terms of the Settlement Agreement between the Borough and Fair Share Housing Center ("FSHC") such that the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable to households at 30% of the regional median income with half of the very-low income units made available to families, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and

the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households.

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- E. The Borough shall file monitoring and status reports with Fair Share Housing Center ("FSHC") and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at the Allendale Municipal Building, 500 West Crescent Avenue, Allendale, New Jersey 07401.
- F. By September 15 of each year through the end of the period of Third Round Judgment of Repose, the Borough will 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 all parties to the Borough's Court-approved Settlement Agreements, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

§81-2. Definitions.

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

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"Moderate-income household" means the regional median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

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

§81-4. New Construction.

The following requirements shall apply to all new or planned developments that contain low- and moderate-income housing units.

- F. 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 and by the Superior Court, utilizing the regional income limits established pursuant to Section 81-4.F.10 of the Borough's Code.

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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. Income limits for all units for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
 - a. Regional income limits shall be established for the 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 Region 1. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - b. The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant 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.
11. 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.

12. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§81-29. Purpose.

- B. COAH was authorized by P.L. 2008, c 46, Section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7) to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH or a court of competent jurisdiction and had a COAH- or court-approved spending plan were permitted to retain fees collected from non-residential developments.

§81-36. Monitoring.

- A. By September 15, or as otherwise required by the State of New Jersey, of each year through 2025, Allendale shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or Local Government Services ("LGS"), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or LGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Allendale's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

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

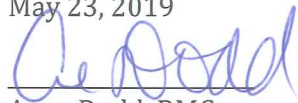
Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not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

Section 4. Except as amended hereinabove, all other provisions of Chapter 81 of the Code of Allendale shall remain in full force and effect.

Section 5. Effective Date. This Ordinance shall take effect upon passage and publication as provided by law.

	Motion	Second	Yea	Nay	Absent	Abstain
Homan					✓	
O'Connell					✓	
O'Toole		✓	✓			
Sasso			✓			
Strauch			✓			
Wilczynski	✓		✓			
Bernstein						

I hereby certify the above to
be a true copy of an Ordinance
adopted by the Governing Body
of the Borough of Allendale on
May 23, 2019



Anne Dodd, RMC
Municipal Clerk



Mayor Ari Bernstein