

**BOROUGH OF HIGHLAND PARK
ORDINANCE NO. 21-2039**

AN ORDINANCE OF THE BOROUGH OF HIGHLAND PARK, COUNTY OF MIDDLESEX AND STATE OF NEW JERSEY AMENDING CERTAIN SECTIONS OF CHAPTER 86, ENTITLED, "FAIR SHARE AFFORDABLE HOUSING" OF THE CODE OF THE BOROUGH OF HIGHLAND PARK TO ADDRESS THE REQUIREMENTS OF THE NEW JERSEY SUPERIOR COURT.

WHEREAS, on October 23, 2018, the Borough of Highland Park, Middlesex County, adopted Ordinance no. 18-1972, "Fair Share Affordable Housing" in order to comply with the requirements of the Mount Laurel doctrine and its approved Settlement Agreement with Fair Share Housing Center; and

WHEREAS, Ordinance no. 18-1972 is codified as Chapter 86 of the Borough Code; and

WHEREAS, the Borough desires to amend certain sections of Chapter 86 to enable it to recapture proceeds from non-restricted sales of affordable for-sale units in the Borough, and to re-establish its affordable housing trust fund.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Highland Park, County of Middlesex and State of New Jersey, that certain sections of Chapter 86 of the "Code of the Borough of Highland Park" ("Code") are hereby amended as follows¹:

Section I. Section 86-14, "Price restrictions for restricted ownership units, homeowner association fees and resale prices", is hereby amended to read as follows:

§86-14. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

A. 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restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as may be amended ~~and supplemented~~ or superseded, including:

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (3) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (4) 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. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
- (5) 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

¹ - In this ordinance, strikethroughs [~~thus~~] are deletions in Chapter 86 and underlined portions [thus] are additions.

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.

- B. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging 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 Section 86-13, 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 placed upon the unit by a duly recorded mortgage.

Section II. Section 86-32, "Affordable housing trust fund," is hereby amended to read as follows:

§86-32. Affordable housing trust fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Highland Park's affordable housing program.
- C. ~~Within seven days from the opening of the trust fund account, Highland Park will provide the Court~~ The Borough of Highland Park has previously provided COAH with written

authorization, in the form of a three-party escrow agreement between the municipality, a bank of the municipality's choosing [name of bank that originally held the trust fund], and a Court approved entity COAH, to permit that Court approved entity COAH to direct the disbursement of the funds as provided for in *N.J.A.C. 5:93-8*. The Superior Court shall now have such jurisdiction to direct the disbursement of the Borough's trust funds per *N.J.A.C. 5:93-8*.

- D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

Section III. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section IV. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section VI. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

Introduced on first reading
by title: December 7, 2021

ADOPTED: December 21, 2021

ATTEST:

APPROVED:

Jennifer Santiago
Deputy Clerk

Gayle Brill Mittler
Mayor