

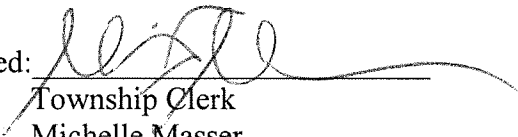
Ord.#7-2020 An Ordinance of the Township of Mount Olive, in the County of Morris and State of New Jersey, Amending Section 550-86, Affordable Housing, of the Township Code to Establish New Subsection 550-86J, Enforcement of Affordable Housing Regulations.

CLERK:

Delivered to Mayor:


Date: 4/1/2020

Time: 9:00 am

Signed: 
Township Clerk
Michelle Masser

MAYOR:

Action by Mayor:

Approved: 

Date: 4/1/2020

Vetoed: _____

Date: _____

(Reasons for which Mayor has withheld approval of Ordinance, item or part Thereof.)

Signed: 
Mayor

CLERK:

Returned:

Date: 4/1/20

Time: 9:20 am

Not returned with in (10) days

Date: _____

Signed: 
Township Clerk

ORD.#7-2020
AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE
COUNTY OF MORRIS AND STATE OF NEW JERSEY, AMENDING
SECTION 550-86, AFFORDABLE HOUSING, OF THE TOWNSHIP
CODE TO ESTABLISH NEW SUBSECTION 550-86J, ENFORCEMENT
OF AFFORDABLE HOUSING REGULATIONS

WHEREAS, New Jersey courts have held that municipalities in the State of New Jersey have a constitutional obligation to provide a realistic opportunity to satisfy their fair share of the regional need for low- and moderate-income housing; and

WHEREAS, on March 16, 2018, the Township of Mount Olive was granted substantive certification in satisfaction of the Township's affordable housing obligation through July 1, 2025; and

WHEREAS, as part of the substantive certification process, the Township adopted regulations governing affordable housing units created in the Township; and

WHEREAS, the Township desires to amend and supplement the regulations regarding enforcement options available to the Township upon the violation of regulations applicable to the affordable housing units located within the Township

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 550, Land Use, Article VI, Zoning, Section 550-86, Affordable Housing, is hereby amended to add new subsection "J" to read as follows:

J. Enforcement of Affordable Housing Regulations.

- (1) Upon the occurrence of a breach of any of the regulations governing an affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment 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.
- (2) After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:

- (a) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - [1] A fine of not more than \$2,000 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;
 - [2] In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Mount Olive Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - [3] In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- (b) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - [1] The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner

shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- [2] The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- [3] Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- [4] If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first

purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

[5] Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

[6] 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.

SECTION 2. This Ordinance may be renumbered for the purposes of Codification.

SECTION 3. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of the Ordinance.

SECTION 4. All ordinances or parts of ordinances of the Township of Mount Olive that are inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 5. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.


Introduced: 3/17/2020
Adopted: 3/31/2020
Effective Date: 4/24/2020

TOWNSHIP OF MOUNT OLIVE



Joe Nicastro, Township Council President

Attest: 3/31/20



Michelle Masser, Township Clerk