**ORDINANCE NO. 23-2019**

**OF THE GOVERNING BODY**

**OF THE BOROUGH OF BLOOMINGALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE IN THE COUNTY OF PASSAIC, AND STATE OF NEW JERSEY AMENDING CHAPTER XII SECTIONS 2.7, 2.12 AND 2.13 OF THE BOROUGH’S AFFORDABLE HOUSING ORDINANCES TO ESTABLISH REGIONAL INCOME AND ASSET LIMITS AND MAXIMUM RENTAL AND SALES PRICES FOR ALL AFFORDABLE UNITS IN THE BOROUGH.**

**WHEREAS**, in response to the New Jersey Supreme Court’s decision of In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(“Mount Laurel IV”), on July 2, 2015, the Borough of Bloomingdale filed a declaratory judgment action in the Superior Court of New Jersey in the case of entitled In re Application of the Borough of Bloomingdale, Docket No.: PAS-L-2360-15 (hereinafter the “DJ Action”), seeking a Judgment of Compliance and Repose from the court declaring the Borough’s Housing Element, Fair Share Plan, and affordable housing ordinances to be in compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301, et seq.; and

**WHEREAS,** Fair Share Housing Center (“FSHC”) having participated as an interested party in the Borough’s DJ Action; and

**WHEREAS,** the Borough having received a Judgment of Compliance and Repose (“JOR”) from the Superior Court on July 18, 2016; and

 **WHEREAS**, prior to Mount Laurel IV, an important function historically performed by the Council on Affordable Housing (“COAH”) was establishing income limits for each of the COAH housing regions, which were in-turn used to determine household eligibility for affordable housing, and to set rent increases for existing affordable housing; and

 **WHEREAS**, COAH has not published income limits or rent increases since 2014; and

 **WHEREAS**, following the Borough’s grant of a JOR, courts throughout New Jersey found it necessary to establish regional income limits and rent increase levels to comply with the directives of the Fair Housing Act, and to more generally ensure the implementation of each municipalities’ constitutional obligations through the availability of existing affordable housing and new affordable housing constructed pursuant to Mount Laurel IV; and

 **WHEREAS**, since Mount Laurel IV, courts throughout New Jersey have deemed it appropriate to establish income limits and rent increases based on COAH’s methodology for setting such income limits and rent increases, and to empower municipalities to update such income limits and rent increases on an annual basis based on the process historically used by COAH; and

**NOW, THEREFORE, BE IT ORDAINED** bythe Mayor and Council of Borough of Bloomingdale, that Chapter XII Section 2.7 of the Borough Code, is hereby amended to read as follows:

**12-2.7 Establishment of Calculation of Reginal Income Limits, Regional Asset Limits, and Maximum Rental and Sales Prices for Affordable Units.**

Income limits for all affordable housing units located within the Borough of Bloomingdale, and 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 et seq (“UHAC”), shall be updated by the Borough annually within 60 days of the publication of determinations of median income by the Department of Housing and Urban Development (“HUD”) as follows:

a. Regional income limits shall be established for the affordable housing region that the Borough is located within and based on the median income by household size, which shall be established by the regional weighted average of the uncapped Section 8 income limits most recently 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 affordable housing region. This quotient represents the regional weighted average of median income for a household of four.

1. 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 COAH Region 1 for a family of four.
2. The income limit for a low-income unit for a household of four shall be 50 percent of the regional weighted average median income for COAH Region 1 for a family of four.
3. 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 COAH Region 1 for a family of four.
4. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size.
5. In no event shall the income limits set forth above be less than the previous year.
6. 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) of the UHAC shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a)(1) thru -(4) above, as applicable, 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.
7. In establishing sale prices and rents of affordable housing units, the Borough’s Administrative Agent shall follow the procedures set forth in the UHAC, utilizing the regional income limits established pursuant to the process defined above.
8. Resale prices of owner-occupied low-and moderate-income units may increase annually based on the percentage increase in the regional median income limit for COAH Region 1 determined pursuant to Paragraph (a) above. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
9. The rent levels for very low, low-and moderate-income units may be increased once 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.
10. If COAH or the Department of Community Affairs (“DCA”) issues official updated affordable housing regional income limits at any time, the COAH or DCA limits will supersede the terms set forth herein, except that any such new income limits issued by COAH or the DCA will not become effective until January 1st of the following year.

**NOW, THEREFORE, BE IT FURTHER ORDAINED** bythe Mayor and Council of Borough of Bloomingdale, that Chapter XII Sections 2.12 thru 2.13 of the Borough Code are hereby deleted in their entirety with the exception of the applicable section numbers, which shall be reserved as appropriate placeholders for future additions to Chapter XII.

**NOTICE**

**NOTICE IS HEREBY GIVEN**, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale held in the Municipal Building on the 25th day of June, 2019, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on the 23rd day of July, 2019 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk’s Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Breeanna Calabro, RMC

Municipal Clerk

 BOROUGH OF BLOOMINGDALE

 COUNTY OF PASSAIC

ATTEST: STATE OF NEW JERSEY

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Breeanna Calabro, Clerk Jonathan Dunleavy, Mayor