



ORDINANCE 2016-14

Amending and Supplementing Chapter 62, Article IV, Division 14, Regarding Expiration of Restrictions on Affordable Housing Units (revised May 24, 2016)

WHEREAS, the Code of the Township of South Brunswick contains Chapter 62, Article IV, Division 14, which regulates the production, maintenance and use of for-sale and rental affordable housing units in order to promote the general welfare by providing for a variety of housing choices within the Township, satisfy the Township's constitutional obligation to provide a realistic opportunity for the development of its fair share of the regional need for lower-income housing by establishing a mechanism for ensuring that housing units designated for occupancy by low- or moderate-income households remain affordable to and occupied by such households and in order to conform to the substantive rules of the State Council on Affordable Housing ("COAH"); and

WHEREAS, Section 62-1997 regulates the expiration of restrictions on affordable housing units, the specific terms of which have remained unchanged since this section was originally adopted in 1988; and

WHEREAS, since that time, changes to the regulations by COAH as well as certain court rulings have refined and/or modified when restrictions on affordable housing units expire and when and under what circumstances such restrictions can be extended by the Township; and

WHEREAS, it is appropriate to amend and supplement the existing Section 62-1997 as a result of these changes;

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

- I. South Brunswick Code Sec. 62-1997 shall be and is hereby amended and supplemented as follows, with additions in underline and deletions in strikethrough:

Sec. 62-1997 - Expiration of restrictions; ~~repayment~~; extension of restrictions.

- (a) Expiration of restrictions. Unless extended as set forth in subsection (c) herein, ~~Restrictions~~ on low- and moderate-income sales and rental housing shall expire and terminate at the earliest of the following:
- (1) Thirty years from the date the restrictions initially encumber the unit;
 - (2) The date upon which a judgment of foreclosure is entered in favor of a first purchase money mortgagee, except as provided in N.J.A.C. 5:80-26.11(d); or
 - (3) The date after restrictions expire as set forth in subsection (a)(1) of this section when

any affordable housing rental unit which continues to be occupied by a low- or moderate-income household becomes vacant.

- (b) Repayment. A repayment mortgage and a repayment note shall be executed in favor of the affordable housing office by a purchaser of a low- or moderate-income housing unit. The repayment mortgage and repayment note shall provide for repayment to the authority of 95 percent of the price differential at the first nonexempt transfer of title after the expiration of restrictions as set forth in subsection (a) of this section. The repayment mortgage shall be recorded simultaneously with the deed. The recorded original repayment mortgage, together with the original repayment note, shall be filed with the affordable housing office.
- (c) Extension of restrictions. The Township shall have the right to determine that the most desirable means of promoting an adequate supply of low- and moderate-income housing is to extend the period of restrictions on low- and moderate-income sales and rental housing units beyond the period set forth in subsection (a) under such circumstances and by such means as may be permitted by law. Nothing contained herein shall prohibit the Township from extending any restrictions upon mutual agreement between the Township and the then owner of the unit.

II. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

III. This ordinance shall become effective twenty (20) days after its final passage.

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of South Brunswick held on May 24, 2016, and will be considered on second and final reading and final passage at a regular meeting of the Township Council of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, New Jersey, at 7:30 p.m. on June 28, 2016, at which time and place any person having an interest therein will be given an opportunity to be heard.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Josephine "Jo" Hochman, Councilwoman
SECONDER:	Charlie Carley, Councilman
AYES:	Charlie Carley, Josephine "Jo" Hochman, Frank Gambatese
ABSENT:	Joseph Camarota, Chris Killmurray

This is to certify that the foregoing is a true copy of a Ordinance Adopted at the South Brunswick Township Council meeting held on June 28, 2016.


Barbara Nyitrai, Township Clerk