

**BOROUGH OF SADDLE RIVER
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. 21-1009

**AN ORDINANCE AMENDING CHAPTER 99 “DEVELOPMENT FEES”
OF THE SADDLE RIVER BOROUGH CODE**

WHEREAS, in 2019 the Mayor and Council of the Borough of Saddle River adopted an ordinance repealing and replacing in its entirety Chapter 99 of the “Code of the Borough of Saddle River” to establish a Third Round affordable housing development fee ordinance; and

WHEREAS, certain modifications to Chapter 99 are now required in order to clarify requirements pertaining to expenditure of funds in the Borough’s Affordable Housing Trust Fund.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Saddle River, County of Bergen, State of New Jersey, as follows:

Section 1. Chapter 99, Section 7, of the Code of the Borough of Saddle River Entitled “Affordable Housing Trust Fund” is hereby amended to include new Subsections C. and D., which shall read as follows:

C. In the event of a failure by the Borough of Saddle River to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff’d 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs (DCA), Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Saddle River, or, if not practicable, then within the County or the Housing Region.

(1) Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

Section 2. Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

Section 4. Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Bergen.

Vanessa Nienhouse, RMC
Municipal Clerk

Mayor Albert J. Kurpis
Borough of Saddle River, New Jersey

Introduced: _____, 2021

Adopted: _____, 2021