

TOWNSHIP OF MAHWAH

ORDINANCE NO. 1767

AN ORDINANCE AMENDING CHAPTER 24 OF THE CODE OF THE TOWNSHIP OF MAHWAH ENTITLED "ZONING" TO AMEND THE TOWNSHIP'S AFFORDABLE HOUSING PLAN TO RESTRICT THE RENTAL OF AFFORDABLE HOUSING UNITS

WHEREAS, §24-14.1 of the Township of Mahwah's Zoning Ordinance is designed to provide assurances that low and moderate income individuals occupy affordable housing units and to that end, the Township designated the Township of Mahwah Housing Commission with the responsibility of ensuring the affordability of sales and rentals of such restricted units; and

WHEREAS, the Township of Mahwah, by way of its Affordable Housing Commission and the Affordable Housing Division of the Department of Human Services of the Township of Mahwah, is responsible for enforcing the Council on Affordable Housing's ("COAH") regulations and the regulations set forth in the 1998 Township of Mahwah Affordable Housing Plan (hereinafter referred to as "Ordinance 1294"); and

WHEREAS, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC") as may be amended from time to time, is designed, *inter alia*, to implement the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) by assuring that low and moderate income units created under the Act are occupied by low and moderate income households for an appropriate period of time; and

WHEREAS, N.J.A.C. 5:80-26.7(a) of the UHAC regulations mandates that owners of restricted ownership unit must occupy it as the principal residence and not lease the unit; and

WHEREAS, §24-14.1 et seq. of the Township of Mahwah's Zoning Ordinance

permits, *inter alia*, the rental of affordable units, which is inconsistent with N.J.A.C. 5:80-26.7(a) of the UHAC regulations; and

WHEREAS, Ordinance 1294 permits the rental of affordable housing units; and

WHEREAS, the Zoning Ordinance of the Township of Mahwah, at §24-12h.6 specifically authorizes the Housing Commission to recommend changes to the Planning Board and Township Council regarding modifications of the Affordable Housing Plan, Master Plan or Land Use Regulations so as to meet the Affordable Housing Plan needs; and

WHEREAS, the Affordable Housing Commission recommended that the Township of Mahwah's Zoning Ordinance and its Affordable Housing Plan be amended to restrict the rental of affordable units so as to make same consistent with the UHAC regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Mahwah that the ordinances of the Township of Mahwah are hereby amended as follows:

1. Any and all sections of §24-14.1 et seq. of the Township of Mahwah's Zoning Ordinance and Ordinance 1294 permitting the rental of affordable housing units are hereby repealed so as to be consistent with the UHAC regulations.
2. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
3. Section 24-14.17, entitled "Procedures for Initial Sales, Resale Prior to the Expiration of Controls and Rentals" shall be amended by adding a new subsection (c) in its entirety and replacing with the following:

24-14.17c. Low and moderate income units that are owned at the date of adoption of this Ordinance shall be maintained as owner occupied units and not rented, except that where such units are now rented to individuals or families certified as meeting the specified income limits and the rents charged meet the requirements for affordability, such rentals may continue, but only so long as the families remain in the units.

4. If any provision of this Ordinance is for any reason determined to be unlawful or otherwise invalid by any court of competent jurisdiction, such

determination shall not affect the validity of the remaining provisions of this Ordinance, all of which shall remain in full force and effect.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon final passage, adoption and publication according to law.