

Ordinance of the City of Jersey City, N.J.

File No. Ord. 21-017
Agenda No. 3.2 (1st Reading)
Agenda No. 4.2 (2nd Reading and Final Passage)



AN ORDINANCE AMENDING CHAPTER 188 "HOUSING ACCOMMODATIONS AND AFFORDABLE HOUSING COMPLIANCE".

COUNCIL AS A WHOLE offered and moved adoption of the following ordinance:

WHEREAS, the City of Jersey City has adopted a Housing Element, as per NJSA 52:27D-311, the "municipality may provide for its fair share and low and moderate income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share"; and

WHEREAS, the Municipal Council of the City of Jersey City wishes to enforce Ordinance 20-089 (Chapter 187) Inclusionary Zoning Ordinance that would require developers seeking variances or redevelopment plan amendments to have a set aside of 20% affordable units; and

WHEREAS, the Municipal Council of the City of Jersey City wishes to ensure that as the City grows and attracts market-rate residential development that it also provides opportunity for the City to meet its residents', current and future, affordable housing needs; and

WHEREAS, the Municipal Council of the City of Jersey City recognizes the need for a city of its size to have a Division solely dedicated to the tracking and enforcement of all its affordable units in order to preserve existing units and effectively create new affordable units; and

WHEREAS, the Municipal Council of the City of Jersey City recognizes the need to have a Division solely dedicated to studying and recommending housing policy to ensure a holistic approach to meet the ongoing and future needs for all Jersey City residents;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that Chapter 188 "Housing Accommodations and Affordable Housing Compliance ", Article II is hereby stricken and rewritten as follows:

Section I.

§ 188-7. - Definitions.

ACT—The Fair Housing Act, N.J.S.A. 52-27D-301 et seq.

ADAPTABLE – Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT – The entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING – A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

APPROVED AS TO LEGAL FORM

Business Administrator

Corporation Counsel

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AFFIRMATIVE MARKETING PLAN (AMP)—The plan for marketing the affordable housing units as set forth herein.

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE HOUSING AGREEMENT (AHA)—The written agreement between the developer/owner of an affordable housing unit or units and the City which imposes restrictions on the units to ensure that they remain affordable to households of low and moderate income as defined herein, for a specified period of time and which is recorded with the deed to the unit in the office of the County Register.

AFFORDABLE DEVELOPMENT – A housing development all or a portion of which consists of affordable units and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

AFFORDABLE HOUSING PROGRAM – Any City program intended to create one or more affordable units.

AFFORDABLE UNIT – A housing unit proposed or created pursuant to the Act, this ordinance, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.

AGENCY - The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT – A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ALTERNATIVE LIVING ARRANGEMENT – A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ANNUAL INCOME—Income as defined in 24 CFR Part 5 of the U.S. Department of Housing and Urban Development's (HUD) General HUD Program Requirements.

APPLICATION FOR AFFORDABLE HOUSING—The application forms to occupy an affordable housing unit in the format approved by the Corporation Counsel and Director of the Division of Affordable Housing and made available by a developer to potential occupants.

DEVELOPER— Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT - The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

DIRECTOR—The Director of the Division Affordable Housing or their designee.

DIVISION—The Division of Affordable Housing.

HOUSEHOLD—The person(s) who occupy the housing unit.

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INCLUSIONARY DEVELOPMENT - A development containing both affordable units and market rate units. This term includes, but is not necessarily limited to new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW INCOME HOUSEHOLD - A household with a total gross annual household income equal to 50% or less of the median household income. Except where otherwise specified, this shall include very-low income households.

LOW INCOME UNIT – A restricted unit that is affordable to a low-income household.

MARKET RATE UNITS - Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME – The median income by household size for the applicable county, as adopted annually by COAH, approved by the NJ Superior Court, or approved by the Affordable Housing Professionals of New Jersey.

MODERATE INCOME HOUSEHOLD – A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE INCOME UNIT – A restricted unit that is affordable to a moderate-income household.

RANDOM SELECTION PROCESS – A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT – The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

REHABILITATION – The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT – The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT – A dwelling unit, whether a low income or moderate income rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1.

UHAC – The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY LOW INCOME HOUSEHOLD - A household with a total gross annual household income equal to 30% or less of the median household income.

VERY LOW INCOME UNIT – A restricted unit that is affordable to a very-low income household.

§ 188-8. - Purpose and Applicability.

A. This section of the City Code sets forth regulations regarding the low and moderate income housing units in the City consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq. except where the UHAC requirements for the creation of very-low income units are superseded by the requirements of the Fair Housing Act as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1), and the City's constitutional obligation to provide a fair share of affordable housing for low and moderate income households.

B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on _____ affordability over time and that very-low, low- and moderate-income households shall occupy these units.

C. This Ordinance shall apply to all inclusionary developments and 100% affordable developments, excluding those subject to the funding _____ requirements of Federal Low-Income Housing Tax Credit under Section 42 of the Internal Revenue Code, Balanced Housing funds under the _____ Agency’s Home Express program or units

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receiving assistance under the Federal HOME program, 24 C.F.R. §92.252(e), §92.254(a)(4); HUD 202 program, 24 C.F.R. Part 891; HUD 811 program, 24 C.F.R. Part 890; HUD HOPE VI program; or Federal Home Loan Bank, Affordable Housing Program, 12 C.F.R. Part 60.

§ 188-9. - Duties of the Division of Affordable Housing.

The Division of Affordable Housing shall be responsible for the administration of this article and shall monitor compliance with all affordable housing agreements. The Division shall also be responsible for the following:

A. Promulgation of the Affordable Housing Manual. The Division shall promulgate a manual entitled "The Regulations Governing Municipally-Mandated Affordable Housing," which shall include the forms and documents required for all affordable housing applications. The Division shall update the manual on a regular basis. The manual shall be available to the public and shall be on file in the Office of the City Clerk.

B. Recordkeeping. The Division shall maintain a comprehensive recordkeeping system of each development that contains affordable housing units including the size of and bedrooms in each affordable unit, the number of market and affordable units; improvements, if any; the names of occupants; the level of affordability of each unit; starting date of affordability control; length of affordability controls; copy of the affordability controls; and any other such information as required by the manual. The Division has the right to review all records and files kept by any developer related to affordable housing.

C. Review and approve affordable housing agreements.

D. Reviewing affirmative marketing plans and annual reports. The Division shall review each developer's affirmative marketing plan and any reports or submissions required of developers by the manual.

E. Conduct determination appeals. The Division is empowered to hear appeals of all decisions regarding administration of affordable units as set forth herein.

§ 188-10. - Affordable housing agreement.

A. General Provisions. The following provisions shall be part of all affordable housing agreements:

1. Each affordable housing unit shall be restricted by an affordable housing agreement (AHA), signed by the developer/owner, Director of the Division of Affordable Housing and Director of Housing, Economic Development/or designee.

2. Each AHA shall provide specific information about each affordable unit. The information shall be a minimum of the following: size and number of bedrooms in each unit; number of market and affordable units; improvements, if any; level of affordability of each unit, location of unit; starting date of affordability control and length of affordability controls; and sample affordability controls.

3. Each AHA shall identify the administrative agent for the affordable units.

4. The AHA shall address occupancy requirements and require that all affordable housing units remain the primary residence of the household of record listed on the lease.

5. The AHA shall address resale of units (if applicable), pricing of resale units (if applicable), recertification of tenants, and removal or reclassification of tenants for non-eligibility.

6. All AHAs, affordability controls, deeds, and mortgagees, as necessary approved by the Corporation Counsel.

B. All AHAs, shall minimally require the following of the developer/owner of the affordable units:

1. Maintain an Affordable Unit Waiting List consistent with this Chapter, N.J.A.C. 5:80-26.1 et seq., as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301.).

2. Develop an Affirmative Marketing Plan consistent with this Chapter, N.J.A.C. 5:80-26.15, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301., including [P.L. 2020](#), c.51 and any related rules that may be published). The developer shall submit an affirmative marketing plan for any affordable

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housing units in any of the developer's properties that are unoccupied and available for rent or purchase. The affirmative marketing plan shall be subject to review and approval by the Director of the Division of Affordable Housing.

3. Provide an Annual Report. The developer shall submit an annual report in a format approved by the Director of the Division of Affordable Housing. The report shall include a list of affordable housing units in each of the developer's developments that are unoccupied and available for rent or purchase; a list of affordable housing units in each of the developer's developments that are occupied; a list of total units in each of the developer's developments which include affordable housing; and the date of, and the household income, of the most recent tenant occupancy.

4. Maintain Affordability Controls. The developer shall comply with the affordability controls prescribed in the affordable housing agreement, which may include but are not limited to, maximum sale and rental prices, maximum resale prices, dispute resolution and use of deed restrictions and disposition covenants. The affordability controls shall be subject to review and approval by the Director of the Division of Affordable Housing.

5. Non-discrimination. Marketing to and placement of tenants in affordable housing units shall be in compliance with all applicable federal, state and local laws related to fair housing rules. Income review, applicant eligibility review, and placement procedures shall not discriminate against any person on the basis of race, religion, national origin, sex, sexual orientation, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

C. Deeds. Any master deed that includes affordable housing units subject to this article shall reference the affordable housing unit(s) and the AHA(s). A copy of the recorded deed and the AHA(s) for each unit shall be filed with the Division of Affordable Housing.

D. Certificate of Occupancy. No Certificate of Occupancy shall be issued for an affordable housing unit unless the Director shall certify that the sale or rental complies with the terms of this agreement and these regulations and has executed the AHA for that unit.

§ 188-11. - Duties of the developer.

Developers shall comply with the provisions of the “Affordable Housing Agreement” in §188-10 as well as all other applicable provisions herein.

§ 188-12. - Applicant eligibility determination procedures.

Prospective applicants for affordable housing must demonstrate to the developer adequate documentation of low- or moderate- income status as set forth in the manual.

§ 188-13. - Appeals by applicants.

If an applicant contests a decision by the developer regarding income classification or denial or revocation of certification, then the applicant shall have the right to appeal such decision to the Director of the Division of Affordable Housing. The Director may, at their discretion, conduct a hearing about the dispute following the procedures set forth in the manual.

§ 188-14. - Violation, default and remedies.

Upon a violation of any of the provisions of the affordable housing agreement, the deed, the mortgage or this article, the Director of the Division of Affordable Housing shall give written notice to the developer specifying the nature of the violation and require corrective action within a reasonable period of time as set forth in the manual. If the developer does not reply or correct the violation within the time specified, the Director may declare the developer in default and seek any remedy available to the City at law in a court of competent jurisdiction.

§ 188-15. Administration of Affordable Units.

The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

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A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

| Maximum Percentage of Market-Rate Units Completed | Minimum Percentage of Low- and Moderate- Income Units Completed |
|---|---|
| 25 | 0 |
| 25+1 | 10 |
| 50 | 50 |
| 75 | 75 |
| 90 | 100 |
| 100 | |

B. Design. In inclusionary developments, low- and moderate- income units shall be integrated with the market units.

C. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

D. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. Affordable units shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.

2. Within rental developments, of the total number of affordable rental units, at least 13% of the restricted units within each bedroom distribution shall be affordable to very-low income households.

3. At least half of the affordable units in each bedroom distribution within each affordable housing development shall be affordable to low-income households.

4. Affordable developments that are not age-restricted shall be structured as follows:

a. The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate- income units;

b. At least 30% of all low- and moderate-income units shall be two bedroom units;

c. At least 20% of all low- and moderate-income units shall be three bedroom units; and

d. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

E. Accessibility Requirements:

1. All units shall be constructed in accordance with N.J.A.C. 5:23 (Uniform Construction Code), N.J.S.A. 52:27D-119 et seq. (State Uniform Construction Code Act.), N.J.S.A. 52:27D-301 et seq. (Fair Housing Act), including all adaptability requirements as codified in N.J.S.A. 52:27D-311a, 52:27D-311b and 52:27D-123.15, and all other Federal, State and local laws unless otherwise stated in the Affordable Housing Agreement.

F. Maximum Rents and Sales Prices.

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1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate- income units shall be affordable to households earning no more than 52% of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low- income and moderate-income units.
 - a. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. Income limits for all units 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 shall be

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updated by the City annually within 30 days of the publication of determinations of median income by HUD as follows:

a. Regional income limits shall be established for the Region 1 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits 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 Region 1. This quotient represents the regional weighted average of median income for a household of four. 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 a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. 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 a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

b. The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the City updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

c. 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 shall be calculated by the City annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above 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.

11. The rent levels of very-low-, low- and moderate-income units may be increased 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.

12. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

G. Condominium and Homeowners Association Fees.

1. For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

H. Affordable Unit Controls and Requirements

1. The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

I. Affirmative Marketing

1. The City shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The

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affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. The affirmative marketing plan shall cover the period of deed restriction, but may be updated as necessary with current information.

3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1, comprised of Hudson, Bergen, Passaic and Sussex Counties.

4. The Administrative Agent designated by the City shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.

5. The following community and regional organizations shall be included in the affirmative marketing plan: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Hudson County NAACP, Hudson County Urban League, and Hudson County Housing Resource Center, New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The City also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

6. The affirmative marketing plan shall require advertising for available units to be translated into the top five languages spoken in Jersey City public schools.

7. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

8. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.

9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the City of Jersey City.

J. Occupancy Standards.

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

- a. Provide an occupant for each bedroom;
- b. Provide separate bedrooms for parents and children;
- c. Provide children of different sexes with separate bedrooms; and
- d. Prevent more than two persons from occupying a single bedroom.

2. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

K. Selection of Occupants of Affordable Housing Units.

1. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.

2. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq.

L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

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1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.

2. Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

4. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

5. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

M. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- a. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- d. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

N. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household’s certified monthly income.

O. Limitations on indebtedness secured by ownership unit; subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

2. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

P. Control Periods for Restricted Rental Units.

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.

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a. Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.

2. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

3. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hudson. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

4. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:

- a. Sublease or assignment of the lease of the unit;
- b. Sale or other voluntary transfer of the ownership of the unit; or
- c. The entry and enforcement of any judgment of foreclosure.

Q. Price Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

R. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- a. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
- c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household’s eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

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- b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- c. The household is currently in substandard or overcrowded living conditions;
- d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- e. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

S. Conversions.

1. Each affordable housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

T. Alternative Living Arrangements.

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

- a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
- b. Affordability average and bedroom distribution (N.J.A.C. 5:80- 26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 188-16. Municipal Housing Liaison.

A. The position of Municipal Housing Liaison for the City of Jersey City is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the City Mayor and Council.

B. The Municipal Housing Liaison must be either a full-time or part-time employee of the City of Jersey City.

C. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.

D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the City of Jersey City, including the following responsibilities which may not be contracted out to the Administrative Agent:

- 1. Serving as the municipality’s primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- 2. The implementation of the Affirmative Marketing Plan and affordability controls.
- 3. When applicable, supervising any contracting Administrative Agent.

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4. Monitoring the status of all restricted units in the City of Jersey City.
5. Compiling, verifying and submitting annual reports as required by the City of Jersey City;
6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§ 188-17. Administrative Agent.

A. The City shall designate by resolution of the City Mayor and Council one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.

B. Developers of affordable units may serve as the administrative agent for their development where adequate experience, education and expertise in affordable housing administration is demonstrated and where the developer is designated as the administrative agent in the Affordable Housing Agreement. Designation of the developer to serve as the administrative agent shall be at the sole discretion of the City.

C. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

D. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
2. Affirmative Marketing;
3. Household Certification;
4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
9. The Administrative Agent shall, as delegated by the City Mayor and Council, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 188-18. Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the 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, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. 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 against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

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1. 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 found 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:

- a. A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
- b. In the case of an Owner who has rented his or her low- or moderate- income unit in violation of the regulations governing affordable housing units, payment into the City of Jersey City Affordable Housing Trust Fund of the gross amount of rent illegally collected;
- c. In the case of an Owner who has rented his or her 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.

2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.

C. Such 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 the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. 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 and to the 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.

E. 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.

F. 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.

G. 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.

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H. 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 II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the City of Jersey City declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

Introduced:
Adopted:

An Ordinance Amending Chapter 188 “Housing Accommodations and Affordable Housing Compliance”.

| RECORD OF COUNCIL VOTE ON INTRODUCTION – Mar 10 2021 | | | | | | |
|--|--------|----------|--------|--------------------|--------|------------|
| RIDLEY | ABSENT | SALEH | AYE | LAVARRO | AYE | 6-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | ROBINSON | ABSENT | WATTERMAN, PRES | ABSENT | |

| RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING – | | | | | | |
|--|-----|----------|-----|---------------------|-----|------------|
| RIDLEY | AYE | SALEH | AYE | LAVARRO | AYE | 9-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | ROBINSON | AYE | WATTERMAN, PRES. | AYE | |

SPEAKERS:

Yvonne Balcer, Andrew Ruso & Jeanne Daly

| RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY – | | | | | | |
|--|--|----------|--|---------------------|--|--|
| RIDLEY | | SALEH | | LAVARRO | | |
| PRINZ-AREY | | SOLOMON | | RIVERA | | |
| BOGGIANO | | ROBINSON | | WATTERMAN, PRES. | | |

| RECORD OF FINAL COUNCIL VOTE – Mar 24 2021 | | | | | | |
|--|-----|----------|-----|---------------------|-----|------------|
| RIDLEY | AYE | SALEH | AYE | LAVARRO | AYE | 9-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | ROBINSON | AYE | WATTERMAN, PRES. | AYE | |

Adopted on first reading of the Council of Jersey City, N.J. on **Mar 10 2021**

Adopted on second and final reading after hearing on **Mar 24 2021**

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on Mar 24 2021



City Clerk



Joyce E. Watterman, President of Council
Approved: Mar 24 2021



Steven M. Fulop, Mayor
Date to Mayor: Mar 25 2021
Approved: Mar 25 2021