

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

File No. Ord. 24-049
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 N.J.S.A. 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, as well as restrictions setting aside affordable units under Redevelopment Plans or applicable law aside from rent control; 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 resident's, 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:

A. Chapter 188 (Housing Accommodations and Affordable Housing Compliance), Article II (Affordable Housing) is hereby stricken and rewritten as follows:

§ 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.

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

APPROVED AS TO LEGAL FORM

A handwritten signature in black ink, appearing to be "JMA", is written over a horizontal line.

Business Administrator

A handwritten signature in black ink, appearing to be "Benjamin", is written over a horizontal line.

Corporation Counsel

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

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 with the City that, as a condition of receiving a project's certificate of occupancy, must be executed by the developer(s)/owner(s) of any property or project that contains any number of Affordable Housing Units or other Income-Restricted Units. The AHA informs developers/owners of such units of, and binds them to, certain City-defined terms, conditions, restrictions, policies and procedures applicable to such units to ensure that they remain accessible and affordable to income Qualifying households, for a specified period of time and which the developer/owner is responsible to ensure is recorded with the deed to the unit in the office of the County Register such that all future owners of the applicable units are notified of and bound by the AHA throughout its term of years.

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 income restricted or affordable units; however, the term is not understood to encompass rent-controls under Section 260 of the Jersey City Municipal Code.

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.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

DIVISION—The City of Jersey City’s Division of Affordable Housing or such other Division or Department as the City may appoint as its successor with respect to the powers and responsibilities set forth herein.

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

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.

INCOME RESTRICTED UNIT – A housing unit with a sales price or rent required to be within the means of people making a specified income. The term “income restricted” shall be understood to include all affordable units, as well as all workforce units, and any other unit which requires that occupants or owners to fall within a specified income range.

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 subject to income restrictions that may sell or rent at any price.

MEDIAN INCOME or **MEDIAN HOUSEHOLD INCOME** – The median income by household size for the applicable county, as adopted annually by COAH, approved by the NJ Superior Court, published by the Affordable Housing Professionals of New Jersey or, if the foregoing are no longer the adopting entities, then as adopted by any successor organization that may inherit the responsibility of determining median income from these entities.

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 or **RESTRICTED HOUSING UNIT** – A dwelling unit, whether a very-low income, low income, moderate income, workforce income, or otherwise income-qualified, and whether a rental unit or ownership unit, that is subject to any affordability or occupancy controls governed by this Chapter.

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.

WORKFORCE HOUSEHOLD- a household whose total gross income is greater than eighty percent (80%), but does not exceed one-hundred and twenty percent (120%) of the Median Household Income.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

WORKFORCE HOUSING UNIT – A restricted unit that is affordable to a workforce income household.

§ 188-8. - Purpose and Applicability.

- A. This section of the City Code sets forth regulations regarding all income-restricted housing units in the City, including but not limited to those that meet the definitions of income restricted units or affordable housing units as set forth herein. It is intended to be read 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/or any constitutional obligation to provide a fair share of affordable housing for low and moderate income households that the City may at any point be or become subject to under applicable law.
- B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") and other income-controlled units are created with controls on affordability over time and that very-low, low- and moderate-income, and workforce households shall, as applicable occupy these units
- C. This Ordinance shall apply to all income restricted units, 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 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.
- D. The provisions of this section shall apply in addition to, and not in place of, any rent control restrictions to which the applicable unit or property may otherwise be subject pursuant to Section 260 of the Jersey City Municipal Code

§ 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 municipally mandated affordable housing and income restriction obligations, including those set forth herein and those set forth in any applicable AHAs. 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, income-restricted and affordable units; improvements, if any; the names of occupants; the level of affordability or other income controls applicable to each unit; starting date of affordability control or income-restrictions; length of affordability controls or income restrictions; copy of the affordability controls and income restrictions; 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. Enforce the requirements of this chapter and of any agreement or ordinance establishing affordable or income-restricted housing obligations, for which purpose designees of the division shall be empowered as Jersey City Code Enforcement Officers to issue and serve summonses on complaints in accordance with New Jersey Court Rule 7:2-2.
- F. The Division shall be empowered to assess fees upon developers or owners of buildings, projects, and/or units subject to this Chapter sufficient to cover the actual administrative costs of carrying out the Division's responsibilities described in this Chapter or elsewhere in the Jersey City Municipal Code. Such fees shall be set forth in Chapter 160 of the Jersey City Municipal Code.

§ 188-10. - Affordable housing agreement.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

- A. General Provisions. The following provisions shall be part of all affordable housing agreements:
1. Every affordable housing or other income-restricted unit shall be restricted by an affordable housing agreement (AHA), signed by the developer/owner which shall be binding upon that developer/owner and any heir, assign, or successor in interest thereto, as well as to any successor in title to the applicable unit(s). If a developer or owner refuses or otherwise fails to execute or record an AHA for any affordable housing or income-restricted unit, it shall be a violation of this section, in addition to a zoning violation (where applicable), and subject the developer or owner to all actions and penalties for breach or violations set forth herein or otherwise applicable. Additionally, the City shall withhold issuance of a certificate of occupancy for failure to execute the AHA.
 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 controls and other applicable restrictions and length of affordability controls; and sample affordability controls.
 3. Each AHA shall ensure that the Developer/owner(s) select an administrative agent for the affordable or income-restricted units from among those approved by the City through ordinance/resolution.
 4. The AHA shall address occupancy requirements and require that all income controlled units, including but not limited to affordable housing units, remain the primary residence of the household of record listed on the lease or, in the case of ownership units, the primary of the qualified owner.
 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 and other income-restricted units:
1. Maintain a wait list for affordable units and other income-restricted units 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.), and any other restrictions or requirements set forth by the Division
 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 income-restricted or affordable 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 Affordable Housing.
 3. Provide an Annual Report. The developer shall submit an annual report in a format approved by the Director of Affordable Housing. The report shall include a list of all income restricted and affordable housing units in each of the developer's developments that are unoccupied and available for rent or purchase; a list of income restricted and 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 income restricted or 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 AHA, 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 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. Marketing to and placement of tenants into income restricted units not meeting the definition of affordable housing shall follow parallel procedures promulgated by the Division. 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 or other units subject to this article shall reference such 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 or otherwise income-restricted unit or project, as applicable, unless the Director shall certify that the sale or rental complies

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

with the terms of this agreement and these regulations and has executed and recorded the AHA for all applicable units.

- E. Form of AHA. The Division may require that all AHA be in a form specified by the Division of Affordable Housing, as such form may be amended, updated or supplemented by the Division from time to time.
- F. Amendment of AHA and Leases. The Division may require that those Owners and Developers that are subject to the requirements of this Chapter shall:
 - 1. amend any existing AHAs to conform to the terms and/or form required under this section.
 - 2. Execute leases or riders thereto to incorporate terms required by the Division and/or to convert existing leases to such form as may be required by the Division, including as such form may be amended, updated or supplemented by the Division from time to time.

§ 188-11. - Duties of the developers and owners in AHA, Deed & Mortgage.

- A. Developers shall execute an Affordable Housing Agreement and ensure that the same is recorded.
- B. Developers and Owners shall and ensure that any deeds and mortgages related to a property subject to this Section contains all applicable deed restrictions and that the same are properly recorded.
- C. Developers and Owners comply with the provisions of "Affordable housing agreement (AHA)" in §188-10 as well as all other applicable provisions therein, as well as all deed restrictions of record.
- D. Developers and Owners shall, upon request by the Division, promptly provide records evidencing compliance with any applicable provision of the AHA, deed restrictions or the Affordable Housing Manual, the requirements of this Section, or any other related applicable law.
- E. Developers and Owners shall refrain from taking any actions against an applicant or qualified tenant, or setting any requirements (including lease terms) for the same, that would negate or interfere the rights available to tenants and applicants under this Section or penalize them from exercising the same.
- F. Developers and Owners shall strictly adhere to all limitations on amount of rent or rent increases charged on income restricted units. Any increase in rent must be based upon calculations made by an approved Administrative Agent and approved by the Division of Affordable Housing unless such increase is paid by a State or Federal entity under a subsidy program.

§ 188-12. – Applicant eligibility determination procedures.

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

§ 188-13. – Appeals by applicants and tenants.

- A. 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 challenge such decision by making a written communication to the Director of Affordable Housing. The Director may, at their discretion, seek evidence from the applicant or otherwise further investigate and/or make a determination about the dispute following the procedures and criteria set forth in the manual. which determination shall be binding upon the owner or developer.
- B. If a tenant in an income-restricted unit contests any rent or other charge by an Owner or Developer (or an administrative agent acting on their behalf) the tenant shall have the right to challenge such charges or the calculation of thereof by making a written communication to the Director of the Division of Affordable Housing. The Director may, at their discretion, request evidence from the tenant or otherwise further investigate and/or make a determination about the dispute following the procedures and criteria set forth in the manual, which determination shall be binding upon the owner or developer.

§ 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, where such action is capable of correction, a reasonable time within which the City requires corrective action. Corrective actions must be made in accordance with the timeframes set forth by the City, including those that may be referred to in the manual. If the developer does not, within the timeframe specified, either reply with sufficient evidence of compliance as to all points raised, or timely correct all violations identified, the Director may declare the developer in default and seek any remedy available to the City at law or equity in a court of competent jurisdiction or otherwise available to the City, including those pursuant to Section 188-18.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

§ 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.

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 and Amenities.

1. Qualified tenants in affordable and other income-restricted units shall enjoy the full benefit of all privileges afforded to tenants in unrestricted units and shall have full access and use of any of property/building amenities as tenants in unrestricted units, including but not limited to use of access points, parking, shuttles or similar transportation, any fitness center, business center, laundry room, swimming pool, childcare center, playgrounds, and community centers. Tenants in Restricted Units shall not be subjected to any restrictions on their use or enjoyment of such benefits or amenities except those that apply equally to tenants in unrestricted units.

2. Owners and developers shall ensure that tenants in affordable housing or other income-restricted units are not charged any additional fee, assessment, or surcharge, nor shall they collect any other payment whatsoever beyond the actual rents approved by the Division, plus such utility fees and parking fees as expressly permitted under this Chapter. Fees in exchange for any of the following are prohibited: occupancy or use of the unit itself, access or use any other part of the building or property, for access to or use of any amenity thereof, or for the enjoyment of any services, privileges or perks afforded to other tenants of the same building, property or development project by virtue of their tenancies. This provision shall be read, without limitation, to prohibit assessment or collection of any amenity fees, common area use fees, fees for use of fitness centers, business centers, laundry rooms, pools, child care centers, playgrounds, or lounges located on the property or in the building, fees for access to shuttles or other transportation provided to residents of the building or property, fees for receipt of package deliveries, and/or any other fees or charges for services that the developer or owner provides to or arranges for other tenants or units of the building or property. All of the foregoing prohibitions on fees and charges shall apply whether they are charged by the owner/developer or any third-party, and whether or not other tenants who occupy non-income restricted units are charged for the same. This section shall not be interpreted to prohibit developers or owners from assessing reasonable charges for cleanup of debris or repair of damages to the unit, building, or property to the extent the debris or damage is caused by a tenant or that tenant’s licensees or invitees, or from charging reasonable late fees for a tenant’s failure to timely pay Division-approved rents.

3. If parking is made available to tenants of the building by the owner/developer or its agents or contractors and the tenant in an affordable or otherwise income restricted unit elects to procure a parking space, that tenant may be charged a reasonable rate for parking in line with the prices offered to market rate tenants in the building, except that tenants in affordable or otherwise income restricted units shall not be charged for parking where: (a) the parking space is included in the deed for the applicable unit, or (b) parking spaces are otherwise made available to other tenants in the building at no additional charge beyond rents paid.

4. Affordable units and other income-restricted 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.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

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, and the number of one-bedroom units shall be equal to or greater than the number of efficiency 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.
 6. In developments that produce ten (10) or fewer on-site affordable units, the bedroom distribution of the affordable units may mirror the bedroom distribution of the market-rate units so long as at least fifty percent (50%) of the units are low-income units and at least one affordable unit is a three-bedroom 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.
- F. Maximum Rents and Sales Prices.
1. In establishing rents and sales prices of affordable housing units and other income restricted units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, or in the case of workforce units, parallel procedures, 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 for affordable units shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

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 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 and any other income-restricted 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. At the expiration of a lease or at the termination of a lease of a periodic tenant, no developer may request or receive a percentage increase in rent which is greater than the percentage permitted under this paragraph. For a periodic tenant or for a tenant whose lease term shall be less than one year, such tenant shall not suffer or be caused to pay more than one rent increase in any 12-month period. Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease shall be void. Any rental increase in excess of that authorized under this paragraph shall be void. A tenant in an income-controlled unit subject to this Chapter who has paid or been charged a rental increase or fee that they reasonably believe to be unauthorized may challenge the same to the Division of Affordable Housing in accordance with Section 13B of Chapter 188 of the Jersey City Municipal Code.
 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.
 13. It is understood that the subsections 11-15F(1)-(12) shall apply to affordable housing units as defined herein. In establishing rents and sales prices for workforce housing or other alternative types of income-restricted units not covered by the foregoing, the administrative agent shall follow the guidance set forth in the manual as well as instructions communicated to it by the Director. In the absence of definitive guidance or instruction with respect to workforce or other alternative income-restricted units, the administrative agent shall apply the principles and procedures set forth UHAC and by the Superior Court, utilizing the regional income limits established and the definitions of workforce units set forth herein.
- G. Condominium and Homeowners Association Fees.
1. For any affordable housing unit or other income-restricted 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

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

1. The requirements of this section apply to all developments that contain affordable housing units and other income restricted units, including any currently unanticipated future developments that will provide low- and moderate- income housing and other income-restricted units.
- I. Affirmative Marketing.
1. The resolution approving the operating manual shall include 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 affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units or other income restricted 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 and income-restricted 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 and other income restricted 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 or income-restricted 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:
 - 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. Income-restricted units meeting the definition of income-restricted housing but not meeting the definition of affordable housing shall follow the same selection process, unless explicitly otherwise set forth in a Redevelopment plan or zoning, deed or AHA.
 3. 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.
1. Control periods for income 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.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

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 and income-restrictions 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 and the Owner or Developer shall ensure that the deed to the property containing these restrictions is recorded with the County Register.
 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 affordable housing 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. Buyer income eligibility for workforce housing restricted ownership units shall be such that workforce ownership units shall be reserved for households with a gross household income less than or equal to 80% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 120% of median income.
 3. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household, a moderate-income household, or a workforce 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.
 - 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

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

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. Aside from approved rent, no additional fees or surcharges may be charged, passed-through, deducted or otherwise assessed to any qualified tenant in any income restricted unit subject to this Ordinance (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 Director.
3. The payment of the approved rent shall entitle all tenants leasing income-restricted units to fully access, use and enjoy all of their building or common interest community's common areas, services, conveniences, amenities, access points, and entitle them to all other perks and privileges available to any tenant in the same building or common interest community, without further charge or qualification, regardless of whether or not other tenants in non-income-restricted units would be required to pay a fee for the same. All leases shall contain a provision clearly and conspicuously informing tenants of this requirement, and of the tenant's ability to challenge fees by writing to the Director.
4. 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 for affordable units 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;
 - 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.
4. The Administrative Agent shall use parallel procedures and calculations for its certification workforce housing, and shall follow the guidance of the Division, which shall be derived from the formulas used with respect to affordable housing, but adjusted for income levels commensurate with the definition of workforce housing.

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.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

- 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 the Director of the Division of Affordable Housing.
- 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.
 - 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 or otherwise income-restricted units in accordance with N.J.A.C. 5:93 and UHAC. A list of such designated Administrative Agents shall be kept on file with the Division.
- B. The Division shall assign an Administrative Agent for each project from among the designated Administrative Agents on file in making such assignments the Division shall ensure that the Administrative Agent has maintained the necessary qualifications pursuant to criteria set forth in N.J.A.C. 5:93 and UHAC, and take into account the Administrative Agent's ability to effectively complete its functions when its present workload and past performance are considered. The Developer shall execute and maintain current a written contract with the Administrative Agent, using such form of agreement as required by the City or otherwise approved by the Division, including as the City may require the form be amended from time to time. The Developer shall provide a copy of the executed contract to the Division upon request.
- C. 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 to the satisfaction of the Director of the Division of Affordable Housing and where the developer is thereafter designated as an administrative agent by a resolution of the City Mayor and Council. Designation of the developer to serve as the administrative agent shall be at the sole discretion of the City. The ability of a Developer to act as its own Administrative Agent shall be subject to immediate revocation by the Director if the Developer fails to comply with a directive by the Division of Affordable Housing with respect to any income-restricted unit, or otherwise fails to properly carry out the duties or an Administrative Agent under this section, or otherwise by a resolution of the City Mayor and Council.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

- D. The Operating Manual provided by the Division of Affordable Housing, which has been adopted by resolution of the governing body shall be updated from time to time by the Division of Affordable Housing. The Operating Manual shall after each update be promptly published on the Division's city webpage for access by Administrative Agent. 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).

- E. 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.

- F. Developers and Owners are prohibited from interfering with the proper conduct of the administrative agent's duties hereunder. Accordingly, they shall not take nor threaten to take any actions against an administrative agent, make any demands of an administrative agent, or set any requirements (including contract provisions) for an administrative agent that would forbid, curtail, limit, restrict, delay, penalize or otherwise interfere with an administrative agent's ability to do the following:
 - 1. Diligently and impartially carry out its duties as set forth in this Ordinance, in any applicable AHA, in the manual, or in any other directive or guidance promulgated by the Division
 - 2. Promptly report its activities to the City either as otherwise required or upon request by the Division.
 - 3. Promptly report to the City non-compliance with any provisions of this Ordinance by the Developer or Owner.
 - 4. Promptly provide the City with agreements, rent roles, marketing plans, communications, and any other records or materials that evidence the conduct of the administrative agent's duties, or the conduct of the Owner or Developer with respect to units covered hereby.
 - 5. Seek guidance from the Division on questions pertaining to the duties of the Administrative Agent, developer, owner, association, or renter of any building or unit subject to this Ordinance or to the appropriate calculation of rents, or application of any formulas or calculations set forth herein.

§ 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, moderate or workforce income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the actions set forth in the following section (188-18C) against the Owner, Developer or Tenant for any violation that is either incapable of being cured, or remains uncured for: (1) a period established by the Division based on the nature and time-sensitivity of the violation or, if applicable, (2) such notice and cure period as may be required by any applicable state or federal law:

- C.
 - 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:

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

- a. A fine of not more than \$1200.00 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 and/or any other fees or remuneration illegally charged, collected and/or received;
 - 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 reasonable relocation costs, as determined by the court, to any innocent tenants that must relocate as a result of the Owner's violation.
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.
- D. 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.
 - E. 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.
 - F. 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.
 - G. 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.
 - H. 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.
 - I. 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.
- B. The following amendments to Chapter 160 (Fees and Charges) are hereby adopted:

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

R. [Chapter 188](#), Housing Accommodations and Affordable Housing Compliance.

(1) Effective August 1, 2024, each development subject to this Chapter shall pay a two-thousand (\$2,000.00) fee to the City of Jersey City to cover the administrative costs associated with formalizing the Affordable Housing Agreement with the Division of Affordable Housing.

(2) Affordable Housing Portal Fees: for any project with income-restricted units subject to Chapter 188, the Division of Affordable Housing shall annually assess to the applicable developer or owner an amount equal to the sum of the applicable fees for all income-restricted units in the applicable project. The fees for each income-restricted unit shall be calculated by multiplying the maximum allowable monthly rent applicable to the unit at the time of its initial marketing by the percentages set forth below:

(a) for very low income units, 3% of the maximum affordable rent for each unit;

(b) for low income units, 5% of the maximum affordable rent for each unit;

(c) for moderate income units, 7% of the maximum affordable rent for each unit; and

(d) for workforce units, 9% of the maximum allowable rent for each unit.

C. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

D. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. the City Clerk shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.

E. This ordinance shall take effect at the time and in the manner as provided by law.

F. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

RECORD OF COUNCIL VOTE ON INTRODUCTION – Jun 12 2024						
RIDLEY	AYE	SALEH	AYE	DEGISE	AYE	9-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES	AYE	

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING – Jun 26 2024						
RIDLEY	AYE	SALEH	AYE	DEGISE	ABSENT	7-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	ABSENT	GILMORE	AYE	WATTERMAN, PRES.	AYE	

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

RECORD OF FINAL COUNCIL VOTE – Jun 26 2024						
RIDLEY	AYE	SALEH	AYE	DEGISE	ABSENT	7-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	ABSENT	GILMORE	AYE	WATTERMAN, PRES.	AYE	

Adopted on first reading of the Council of Jersey City, N.J. on **Jun 12 2024**

Adopted on second and final reading after hearing on **Jun 26 2024**

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on Jun 26 2024



City Clerk



Joyce E. Watterman, President of Council
Approved: Jun 26 2024



Steven M. Fulop, Mayor
Date to Mayor: Jun 27 2024
Approved: Jun 27 2024

An Ordinance amending Chapter 188 "Housing Accommodations and Affordable Housing Compliance".

FACT SHEET -

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the ordinance.

Project Manager

Genevieve Gazon, Director, Affordable Housing		2015475169	ggazon@jcnj.org
Department	Department of Housing, Economic Development, and Commerce		
Division	Division of Affordable Housing		

Note: Project Manager must be available by phone during agenda meeting (Wednesday prior to council meeting @ 1:00 p.m.)

Meeting	Regular Meeting of Municipal Council - Jun 12 2024
---------	--

Purpose

Amending Chapter 188 of the municipal code to clarify compliance language and strengthen enforcement capabilities, as well as establish administrative fees.
--

Cost (Identify all sources and amounts)

0

Contract term (include all)

--

Approved by
Genevieve Gazon, Director, Affordable Housing
Annisia Cialone, HEDC Director
John McKinney, Attorney
John Metro, Business Administrator

Status:
Approved - May 24 2024
Approved - May 28 2024
Approved - May 30 2024
Approved - Jun 04 2024