

**ORDINANCE NO. 05-2026**

**AN ORDINANCE AMENDING CHAPTER 67, "AFFORDABLE HOUSING,"  
OF THE TOWNSHIP CODE REGARDING AFFORDABLE HOUSING  
OBLIGATIONS**

**WHEREAS**, in 1975, the New Jersey Courts announced in Southern Burlington County N.A.A.C.P., et al, v. Township of Mount Laurel, 67 N.J. 151 (1975), that New Jersey municipalities have a constitutional obligation to affirmatively plan and provide for its fair share of affordable housing for low- and moderate-income households; and

**WHEREAS**, the New Jersey Legislature codified this constitutional obligation in 1985 through the adoption of the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA"); and

**WHEREAS**, on March 20, 2024, the New Jersey Legislature adopted an amendment to the FHA, which abolished the Council on Affordable Housing ("COAH"), created an Affordable Housing Dispute Resolution Program within the Courts (the "Program"), and codified standards for complying with a municipality's affordable housing obligation ("FHA Amendments"); and

**WHEREAS**, the Department of Community Affairs adopted regulations set forth at N.J.A.C. 5:99-1 et seq. ("Affordable Housing Regulations"), implementing the FHA Amendments and the New Jersey Housing and Mortgage Finance Agency also adopted amendment to the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC") to implement the FHA Amendments; and

**WHEREAS**, N.J.S.A. 52:27D-304.1(f)(2)(a) requires municipalities seeking to participate in the Program and secure immunity from exclusionary zoning lawsuits to prepare and adopt a housing element and fair share plan that sets forth a plan for providing for a municipality's fair share of affordable housing, and N.J.S.A. 52:27D-304.1(f)(2)(c) requires municipalities to adopt ordinances to implement the housing element and fair share plan; and

**WHEREAS**, pursuant to that authority, the Township previously adopted an affordable housing ordinance for the Township by way of Ordinance No. 23-2020, adopted on November 20, 2020 ("Affordable Housing Ordinance"), which set forth standards for the construction and administration of very-low-, low- and moderate-income affordable housing units; and

**WHEREAS**, the Affordable Housing Ordinance must be updated to reflect the changes set forth in the FHA, the Affordable Housing Regulations and the amendments to UHAC; and

**WHEREAS**, the Township Committee has determined that it is in the best interest of the Township of Harrison to amend Chapter 67, "Affordable Housing" of the Township Code to reflect the current laws as they relate to the provision of affordable housing.

**NOW THEREFORE BE IT ORDAINED** by the Township Committee of the Township of Harrison, Gloucester County, State of New Jersey, as follows:

1. The Township hereby amends Chapter 67, "Land Management," of the Code of the Township of Harrison to replace Chapter 67, "Land Management," in its entirety with Exhibit A attached hereto,

2. All ordinances or parts of ordinances inconsistent with this Ordinance are


hereby repealed to the extent of such inconsistency.

3. In the event any clause, section, or paragraph of the Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Township Committee that the balance of the Ordinance remains in full force and effect to the extent it allows the Township to meet the goals of the Ordinance.

4. This Ordinance shall take effect after final adoption and publication according to law.

**ATTEST:**

**TOWNSHIP OF HARRISON**

  
\_\_\_\_\_  
JULIE CUNDEY, Township Clerk

  
\_\_\_\_\_  
THOMAS COAKLEY, Deputy Mayor

**PUBLIC NOTICE**

**NOTICE** is hereby given that the foregoing Ordinance was introduced and passed at a meeting of the Township Committee of the Township of Harrison, County of Gloucester, State of New Jersey, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2026, and will be considered for final passage after a public hearing at a meeting of the Township Committee of the Township of Harrison to be held on the \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
JULIE CUNDEY, Township Clerk

I hereby certify that the foregoing Ordinance was approved for final adoption by Mayor and Township Committee of the Township of Harrison, County of Gloucester, State of New Jersey at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
JULIE CUNDEY, Township Clerk



## Exhibit A

### Chapter 67. Affordable Housing

#### § 67-1. Affordable housing obligation: general program purposes, procedures.

- A. This section of the Township Code sets forth regulations regarding provision and administration of very-low-, low- and moderate-income housing units in the Township consistent with the Constitutional obligation set forth in *N.A.A.C.P., et al, v. Township of Mount Laurel*, 67 N.J. 151 (1975) (the Mount Laurel Doctrine), the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.), as amended and supplemented by P.L.2024, c.2 (C.52:27D-304.1 et al.), as amended and supplemented (the “Fair Housing Act”), the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented (“UHAC”); and N.J.A.C. 5:99-1.1 et seq. (“Fair Housing Act Regulations”).
- B. This chapter is intended to ensure 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. This chapter shall apply to all inclusionary developments, and one hundred percent affordable developments (including those funded with low-income housing tax credit financing), as well as all units that are created pursuant to the municipality’s most recently adopted Housing Element and Fair Share Plan, except where inconsistent with applicable law.
- C. The Harrison Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has also been endorsed by the Mayor and Committee of the Township of Harrison. The Fair Share Plan describes the ways the Township shall address its fair share for very-low-, low- and moderate-income housing as determined by the Court and documented in the Housing Element and Fair Share Plan.
- D. This chapter implements and incorporates the Fair Share Plan and addresses the requirements of the Fair Housing Act, UHAC and the Fair Housing Act Regulations.
- E. The Township shall file monitoring and status reports required by the Fair Housing Act, Fair Housing Act Regulations, and UHAC with the New Jersey Department of Community Affairs and place the reports on its municipal website. All monitoring and status reports shall also be available to the public at the Harrison Municipal Building.

#### § 67-2. Definitions.

As used herein the following terms shall have the following meanings:

#### **ACT**

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended and supplemented by P.L.2024, c.2 (C.52:27D-304.1 et al.), and as may be

further amended and supplemented.

### **ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7. "Adaptable," as used with regard to an entrance, means that the plans for the affordable unit include a feasible building plan to adapt the entrance so as to make the affordable unit accessible.

### **ADMINISTRATIVE AGENT**

The entity, approved by the DCA and the Township, responsible for the administration of affordable units in accordance with this ordinance, the Act, UHAC and the Fair Housing Act regulations.

### **AFFIRMATIVE MARKETING**

A regional marketing strategy prepared and implemented in accordance with N.J.A.C. 5:80-26.16, designed to attract buyers and/or renters to affordable units being marketed by a developer or sponsor of affordable units.

### **AFFIRMATIVE MARKETING PLAN**

The plan of strategies adopted by the Township setting forth the strategies which the administrative agent will use to implement the affirmative marketing requirements.

### **AFFORDABILITY AVERAGE**

The average percentage of median income in Region 5 at which affordable units in an affordable housing development are affordable to low-income households and moderate-income households.

### **AFFORDABILITY CONTROLS**

The controls or restrictions placed on a dwelling unit that require the dwelling unit to be affordable to a very-low income household, low-income household, or moderate-income household that are imposed pursuant to UHAC, this Chapter 67 or other state or federal statute or regulation.

### **AFFORDABLE**

A sales price or rent within the means of a very-low-income household, low-income household or moderate-income household; in the case of an ownership restricted unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.7, as may be amended and supplemented, and, in the case of a rental restricted unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.13, as may be amended and supplemented.

### **AFFORDABLE HOUSING DEVELOPMENT**

A development included in the Housing Element and Fair Share Plan, and/or any development that includes the construction of affordable units and includes, but is not limited to, an inclusionary development, a municipal construction project, a one hundred percent affordable development, or a development of which all or a substantial portion consists of affordable units.

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism identified in the Township's adopted Fair Share Plan to address any portion of the Township's fair share obligation.

**AFFORDABLE HOUSING TRUST FUND**

The plan for allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, pursuant to N.J.S.A. 40:55D-8.1 et seq., and/or pursuant to N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of very-low-income households, low-income households and moderate-income households.

**AFFORDABLE UNIT**

A dwelling unit proposed or created pursuant to the Act which is affordable to very-low income households, low-income households or moderate-income households; a restricted unit; a transitional housing unit; a special needs housing unit; a supportive housing unit and/or a dwelling unit created and/or funded through the affordable housing trust fund.

**AGE-RESTRICTED UNIT**

An affordable unit designed to meet the needs of, and intended exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent or purchase price is a minimum age of either 62 years or older; or 55 years or older and meets the provisions of 42 U.S.C. §§3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit.

**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.).

**ASSISTED LIVING RESIDENCE**

A facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD**

A household that has been certified by an Administrative Agent as a very-low-income household, low-income household or moderate-income household.

**CONSTRUCTION PERMIT**

A "construction permit" as the term is defined in N.J.A.C. 5:23-1.4.

**COURT**

Any court of competent jurisdiction to hear and decide matters pursuant to the Act, including but not limited to the Affordable Housing Dispute Resolution Program established pursuant to N.J.S.A. 52:27D-313.2 and a County-Level Housing Judge, as the term is defined in N.J.S.A. 52:27D-304.r.

#### **DCA**

The New Jersey Department of Community Affairs, including but not limited to the Division of Local Planning Services within the Department of Community Affairs and the Agency.

#### **DEFICIENT HOUSING UNIT**

A dwelling unit with health and safety code violations or a dwelling unit that requires the repair or replacement of a major system.

#### **DEVELOPER**

Any person, partnership, association, company, corporation or other entity 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, 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.

#### **DEVELOPMENT FEE**

Money paid by a developer pursuant to Article III "Affordable Housing Development Fee" of Chapter 110, "Fees" of the Township Code, including any fee on development authorized pursuant to N.J.S.A. 52:27D-329.2 or the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq. and N.J.A.C. 5:99-3.

#### **DWELLING UNIT**

Any room or group of rooms or any part thereof located within a building and forming a single habitable unit with facilities which are used, or designed to be used for living, sleeping, cooking, and eating. A dwelling unit shall include a market-rate unit and a affordable unit. A dwelling unit includes all structures satisfying the definition of "dwelling" set forth in Section 225-3 of the Township Code.

#### **FAIR HOUSING ACT REGULATIONS**

The regulations adopted by the DCA pursuant to the Act and codified at N.J.A.C. 5:99, et seq.

#### **FAIR SHARE PLAN**

The plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to N.J.S.A. 52:27D-304.1.f., by which the Township of Harrison proposes to satisfy its obligation to create a realistic opportunity to meet its

fair share of low- and moderate-income housing needs of Region 5 and which details the affirmative measures the Township of Harrison proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the Township's land use ordinances and regulations.

#### **HOUSEHOLD INCOME**

A household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

#### **HOUSING ELEMENT**

That portion of the Township of Harrison's master plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the Township of Harrison's fair share of Region 5's present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which shall contain the Township of Harrison's present and prospective obligation for affordable housing, determined pursuant to N.J.S.A. 52:27D-304.1.f.

#### **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 nonresidential 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 gross household income for households of the same size within Region 5.

#### **LOW-INCOME UNIT**

An affordable unit that is affordable to a low-income household.

#### **MAJOR SYSTEM**

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

#### **MARKET-RATE UNITS**

Any dwelling unit that is not an affordable unit.

#### **MEDIAN INCOME**

The median income by household size for Region 6, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

**MEDICAID BED**

A bed within an assisted living facility that is reserved for use by a Medicaid-eligible resident, as the term is defined in N.J.S.A. 26:2H-12.16(a), which is required to be provided pursuant to N.J.S.A. 26:2H-12.16(b) or (c).

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50% but less than 80% of the median gross household income for households of the same size within Region 5.

**MODERATE-INCOME UNIT**

An affordable unit that is affordable to a moderate-income household.

**MUNICIPAL HOUSING LIAISON**

The person appointed by the Township pursuant to Section 67.5.A.

**NEW CONSTRUCTION**

The creation of a new dwelling unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed dwelling units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another. New construction shall also include reconstruction.

**NEW JERSEY HOUSING RESOURCE CENTER**

The online affordable housing listing portal, or its successor, overseen by HMFA pursuant to N.J.S.A. 52:27D-321.3 et seq.

**NON-EXEMPT SALE**

Any sale or transfer of ownership other than the transfer of ownership of a restricted unit to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

**ONE-HUNDRED-PERCENT AFFORDABLE DEVELOPMENT**

A development which consists entirely of affordable units.

**OPERATIONS MANUAL**

The document prepared by the Township or the Administrative Agent and approved by the Township created and published in plain English and in such other languages as may be appropriate to serve the potential client base, setting forth the procedures for administering the affordable units within a particular affordable housing development, including but not limited to procedures for long-term control of affordable units, for enforcing the

affordability controls and other covenants set forth in the UHAC and any deed restrictions, and for releasing affordable units promptly at the conclusion of applicable control periods. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to affordable units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth at N.J.A.C. 5:80-26.17.

#### **OWNERSHIP RESTRICTED UNIT**

A dwelling unit that is that is subject to the affordability controls, and that is owned by or offered for sale to a very-low-income household, low-income household or moderate-income household.

#### **RANDOM SELECTION PROCESS**

A lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable units such that no preference is given to one applicant over another, except in the case of a preference pursuant to Section 67-3(K)(1); for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable units to be leased or sold on a first-come, first-served basis

#### **RECONSTRUCTION**

Any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

#### **REGION 5**

Collectively, Burlington County, Camden County, and Gloucester County.

#### **REGIONAL ASSET LIMIT**

The maximum housing value in Region 5 affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved regional income limits.

#### **REGIONAL MEDIAN INCOME**

The median income by household size for Region 5, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

#### **REHABILITATION**

The repair, renovation, alteration or alteraton 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 restricted 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.

**RENTAL RESTRICTED UNIT**

A dwelling unit that is that is subject to the affordability controls, and that is rented by or offered for lease or rent to a very-low-income household, low-income household or moderate-income household.

**RESTRICTED UNIT**

A dwelling unit, whether a rental restricted unit or ownership restricted unit, that is subject to affordability controls, and includes a dwelling unit created with monies from the Township's Affordable Housing Trust Fund but does not include a market-rate unit financed under the former Urban Homeownership Recovery Program (UHORP), the former Market Oriented Neighborhood Investment Program (MONI) or the former Choices in Homeownership Incentives for Everyone Program (CHOICE). A restricted unit excludes a supportive housing unit, a transitional housing unit and a special needs housing unit.

**SPECIAL ADJUDICATOR**

An expert appointed by a Court to make sure that judicial orders are followed. A Special Adjudicator's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

**SPECIAL NEEDS HOUSING UNIT**

A dwelling unit or bedroom in a development that satisfies the definition of "special needs housing project" as defined in N.J.S.A. 34:1B-21.24.

**SUPPORTIVE HOUSING UNIT**

A dwelling unit or bedroom in a development that satisfies the definition of "permeant supportive housing" as defined in N.J.S.A. 34:1B-21.24.

**TRANSITIONAL HOUSING**

Temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive housing units; (2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the DCA; and (4) allows households to remain for a minimum of six months.

**UHAC**

Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented.

**VERY-LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the median gross household income for households of the same size within Region 5.

**VERY-LOW-INCOME UNIT**

An affordable unit that is affordable to a very-low-income household.

**VETERAN**

A veteran as defined at N.J.S.A. 54:4-8.10.

**§ 67-3. Administration of affordable units.**

The following requirements shall apply to all new construction of or planned affordable housing developments and all affordable units, unless the affordable housing development or the affordable units are exempt from the requirements of UHAC. Affordable housing developments and affordable units which are exempt from UHAC shall not be required to comply with the requirements of this Section 67-3.

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

<b>Maximum Percentage of Low-Market-Rate Units Completed</b>	<b>Minimum Percentage of and Affordable Units Completed</b>
25%	0%
25% + 1 unit	10%
50%	50%
75%	75%
90%	100%
100%	

- B. Design. All affordable housing developments containing restricted units and affordable units subject to UHAC shall comply with the standards set forth in N.J.A.C. 5:80-26.5, including but not limited to the following:

- (1) Each bedroom in each restricted unit must have at least one window.
- (2) Affordable units shall not be segregated or clustered in any portion of the development, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services.
- (3) All affordable units shall be indistinguishable from market-rate units.
- (4) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable housing development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits.

- (5) Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes.
- C. Utilities. Affordable units shall utilize the same type of heating and cooling source as market units within the affordable housing development, and all affordable units must include adequate heating and air conditioning.
- D. Income and bedroom distribution of affordable housing units. All affordable housing developments shall comply with the income distribution and bedroom distribution requirements of N.J.A.C. 5:80-26.4(e), (f) and (g), except that in the event that an affordable housing development cannot fully satisfy the requirements of N.J.A.C. 5:80-26.4(e), (f) and (g), or is unable to provide a full 13%, without round down to the nearest whole number, of the total units due to its small size or other mitigating factor, the developer must obtain the written approval of the DCA and the municipal housing liaison for any modification of those provisions. Because the requirements of N.J.A.C. 5:80-26.4 are an aggregate municipal obligation, prior to applying for any construction permit for an affordable housing development, the developer shall submit a proposed income and bedroom distribution plan of the affordable housing development to the Municipal Housing Liaison for review and approval. The municipal housing liaison may reject or require modifications to the income and bedroom distribution if the Township is deficient in any bedroom type or income type, based on the need of the Township, as determined on the date of submission of the proposed income and bedroom distribution plan by the developer to ensure municipal compliance with the bedroom and income distribution requirements of N.J.A.C. 5:80-26.4. Once approved by the Municipal Housing Liaison, the developer shall fully comply with the bedroom and income distribution plan and shall confirm compliance with the same by submitting the following to the Administrative Agent, who shall, upon request of the Municipal Housing Liaison, provide a copy of the same to the Municipal Housing Liaison:
- (1) Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
  - (2) The total number of units in the project and the number of affordable units.
  - (3) The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
  - (4) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
- E. Accessibility requirements.
- (1) All new construction in an affordable housing development for which an application for a construction permit has not been declared complete by the Township

Construction Official on or before October 12, 2005 shall comply with the adaptability requirements set forth in N.J.S.A. 52:27D-123.15.

- (2) The first floor of all new restricted units that are townhouse dwelling units or multistory dwelling units attached to at least one other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7. All restricted units that are townhouse dwelling units or multistory dwelling units attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor;
  - (b) An adaptable kitchen on the first floor;
  - (c) An interior accessible route of travel;
  - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor, that is compliant with the Barrier Free Subcode; and
  - (e) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
    - [1] Where an affordable unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the affordable unit, an accessible entrance shall be installed.
    - [2] Where the developer proposes to provide a barrier free escrow in lieu of providing an accessible entrance, pursuant to N.J.S.A. 52:27D-123.15, prior to applying for a Certificate of Occupancy for any affordable unit or market rate unit within an affordable housing development, the developer shall deposit funds within the Township of Harrison's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
    - [3] The funds deposited under Subsection E(2)(e)[2] herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
    - [4] The developer of the affordable units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Harrison.
    - [5] Once the Construction Official has determined that the design plan to convert the affordable unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the

Township of Harrison's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

- [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be by the Township Engineer in compliance with the standards set forth in N.J.S.A. 52:27D-123.15 and the Barrier Free Subcode, N.J.A.C. 5:23-7. A developer seeking a determination of impracticability shall submit to the Township Engineer, with a copy to the Municipal Housing Liaison, a site plan, floor plans, and a detailed explanation as to which portions of the Barrier Free Subcode, N.J.A.C. 5:23-7 are impractical and why compliance is impracticable. If full compliance with N.J.S.A. 52:27D-123.15 would be site impracticable, compliance with N.J.S.A. 52:27D-123.15 for any portion of the affordable unit shall be required to the extent that it is not site impracticable. Any developer seeking a site impracticability determination must obtain the same prior to applying for any construction permit for the affordable housing development.

F. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable units, the administrative agent shall follow the procedures set forth in UHAC utilizing the regional income limits for Region 5 and the requirements set forth in this Chapter.
- (2) The Administrative Agent shall submit annually to the Municipal Housing Liaison on or before December 31 each year the annual rents for each rental restricted unit within an affordable housing development. The maximum rent for rental restricted units, transitional housing units, special needs housing units and supportive housing units within each affordable housing development shall comply with the following:
  - (a) The average rent for all affordable units within each affordable housing development is affordable to households earning no more than 52% of median income for Region 5.
  - (b) The maximum rent for all affordable units within each affordable housing development is affordable to households earning no more than 60 percent of regional median income for Region 5. A maximum rent affordable to households earning no more than 70 percent of regional median income for Region 5 for moderate-income units within affordable housing developments may be utilized where very-low-income units compose at least 13 percent of the affordable units, provided that the number of affordable units with rent affordable to households earning 70 percent of regional median income for Region 5 may not exceed the number of very-low-income units in excess of 13 percent of the restricted units.
  - (c) The developers and municipal sponsors of restricted units shall establish at least one rent for each bedroom count for very-low income units, low-income units, and moderate-income units, provided that at least 13% of all affordable units shall be affordable to very-low-income households. These very low-income units shall

be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.

- (d) The establishment of all initial rent and all rent increases shall comply with N.J.A.C. 5:80-26.13.
- (3) The maximum sales price of ownership restricted units within each affordable housing development shall be affordable to households earning no more than 70% of median income for Region 5, and each affordable housing development containing ownership restricted units must achieve an affordability average that does not exceed 55% for ownership restricted units; in achieving this affordability average, moderate-income units must be available for at least three different prices for each bedroom type, and low-income units must be available for at least two different prices for each bedroom type.
- (4) In determining the maximum sales prices and rents for compliance with the affordability average requirements for affordable units other than age-restricted units and assisted living facilities, the following standards shall be met:
  - (a) A studio or efficiency unit is affordable to a one-person household;
  - (b) A one-bedroom unit is affordable to a 1 1/2 person household;
  - (c) A two-bedroom unit is affordable to a three-person household;
  - (d) A three-bedroom unit is affordable to a 4 1/2 person household; and
  - (e) A four-bedroom unit is affordable to a six-person household.
- (5) In determining the maximum sales prices and rents for compliance with the affordability average requirements for affordable units that are age-restricted units and assisted living facilities, the following standards shall be met:
  - (a) An efficiency unit is affordable to a one-person household;
  - (b) A one-bedroom unit is affordable to a 1 1/2 person household; and
  - (c) A two-bedroom unit is affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
- (6) The initial purchase price and the maximum resale price for all ownership restricted units shall be calculated in accordance with the requirements of N.J.A.C. 5:80-26.7, as may be amended and supplemented, and shall be subject to the limitations on indebtedness set forth in N.J.A.C. 5:80-26.9. In computing regional income limits, the Administrative Agent shall use the median family incomes published for counties within Region 5. The initial purchase price and the maximum resale price are be subject to the affordability average requirement at N.J.A.C. 5:80-26.4, which

shall be initially determined by the Administrative Agent and approved by the Municipal Housing Liaison prior to closing.

(7) Initial rents and initial sale prices shall be determined in accordance with N.J.A.C. 5:80-26.4(i) or (j) as applicable, and in accordance with N.J.A.C. 5:80-26.13.

(8) Tenant-paid utilities that are included in the utility allowance shall be so specifically listed in the lease and a copy of the most recent utilities chart at the time of lease-up used to determine utility allowance shall be provided to the tenant at the time of lease-up. Allowance for utilities must be consistent with the utility allowance calculated pursuant to N.J.A.C. 5:80-26.13(e).

G. Condominium and homeowners' association fees. When calculating initial sale prices, condominium fees, homeowner association fees and special assessments shall be calculated in accordance with the requirements of N.J.A.C. 5:80-26.7(e), as may be amended and supplemented.

H. Developers and/or owners of affordable housing development shall provide the following to the Administrative Agent prior to applying for any construction permit for the affordable housing development:

(1) For affordable housing developments that contain ownership restricted units, the following:

(a) Site plan, architectural plan, or other plan that identifies the location of each affordable.

(b) The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units.

(c) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.

(d) A projected construction schedule.

(e) The location of any common areas and elevators.

(f) The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.

(g) Proposed pricing for all affordable units, including any purchaser options and add-on items.

(h) Condominium or homeowner association fees and any other applicable fees.

(i) Estimated real property taxes.

- (j) Sewer, water, trash disposal, and any other utility assessments.
  - (k) Flood insurance requirement, if applicable.
  - (l) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.
- (2) For affordable housing developments that contain rental restricted units, the following:
- (a) Site plan, architectural plan, or other plan that identifies the location of each affordable.
  - (b) The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units.
  - (c) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
  - (d) A projected construction schedule.
  - (e) The location of any common areas and elevators.
  - (f) The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
  - (g) A description of any applicable fees.
  - (h) A description of the types of utilities and which utilities will be included in the rent.
  - (i) A proposed form of lease for any rental units.
- I. Restricted unit controls and requirements. The requirements of this section apply to all developments that contain restricted units, including any currently unanticipated future developments that will provide restricted units.
- J. Affirmative marketing.
- (1) The Township shall adopt by resolution an affirmative marketing plan compliant with N.J.A.C. 5:80- 26.16, as may be amended and supplemented.
  - (2) The affirmative marketing process is a regional marketing strategy, implemented in accordance with N.J.A.C. 5:80-26.16 and the affirmative marketing plan, designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or

familial status, gender, affectional or sexual orientation, disability, age (except for age-restricted units or “housing for older persons” as defined in N.J.S.A. 10:5-1 et seq. and age-restricted units as permitted by 42 U.S.C. §3601 et seq.), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., to restricted units that are being marketed by a developer, sponsor or owner of restricted units. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Region 5 and is required to be followed throughout the period of deed restriction.

- (3) The affirmative marketing plan shall identify the occupancy preferences set forth in Subsection (K)(1) below.
- (4) The Administrative Agent designated by the Township or the Administrative Agent approved by the Municipal Housing Liaison for a particular affordable development shall assure the affirmative marketing of all restricted units is consistent with the Affirmative Marketing Plan for the Township, this Section and UHAC. All developers, owners and sponsors of restricted units shall comply with the affirmative marketing requirements set forth herein and required by the Administrative Agent, unless otherwise exempted from affirmative marketing requirements under UHAC.
- (5) The affirmative marketing plan shall contain the information required in N.J.A.C. 5:80-26.16(d) and (e) and shall require notification of the availability of restricted units to those community and regional organizations identified in the Mediation Agreement entered into by the Township in the lawsuit captioned, In the Matter of the Township of Harrison’s Determination of 4<sup>th</sup> Round Affordable Housing Obligations, Docket No.: GLO-L-93-25.
- (6) In implementing the affirmative marketing plan, the Administrative Agent shall comply with the requirements of N.J.A.C. 5:80-26.16 and N.J.A.C. 5:99-7,2, and shall provide, either through an experienced staff person, through a contract with a HUD-certified housing counselor, or an otherwise experienced entity approved the DCA, counseling services to applicants who are very-low-income households, low-income households and moderate-income households on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (7) The affirmative marketing process for available restricted units shall begin at least four months prior to the expected date of occupancy and may begin before construction commences. The marketing program shall continue until all restricted units are initially occupied and for as long as restricted units are deed restricted and occupancy or re-occupancy of units continue to be necessary.
- (8) The costs of advertising and affirmative marketing of the restricted units shall be the responsibility of the developer or owner, unless otherwise determined or agreed to by the Township of Harrison. All developers and owners of restricted housing units

shall maintain on file with the Municipal Housing Liaison a copy of an executed agreement with a Township approved Administrative Agent.

- (9) All developers and sponsors of restricted units shall comply with the affirmative marketing plan and assist in the affirmative marketing of their respective restricted units. Unless otherwise stated in UHAC, supportive housing units must comply with the Affirmative Marketing Plan. The developer or administrative agent shall document and report the affirmative marketing plan for the units under their purview to the Municipal Housing Liaison, who shall ensure that developers and administrative agents are marketing units in accordance with the provisions of N.J.A.C. 5:80-26.16 and this Section. The developer or administrative agent shall also provide proof of publication to the Housing Administrator.

K. Occupancy standards. The Administrative Agent shall comply with the occupancy standards set forth in N.J.A.C 5:80-26.5 and the following standards:

- (1) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the restricted unit, the Administrative Agent shall strive to:
  - (a) Ensure each bedroom is occupied by at least one person, except for age restricted units, supportive housing units and special needs housing units.
  - (b) Provide separate bedrooms for every two adult occupants;
  - (c) Provide a bedroom for every occupant under the age of 18, unless the household requests a different arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom;
  - (d) Avoid placing a one-person household into a unit with more than one bedroom.
- (2) Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

L. Selection of occupants of affordable housing units.

- (1) Household certification and referral shall be undertaken in accordance with Section 5:80-26.17 of UHAC. As part of the household certification and referral process, the Administrative Agent shall use a random selection process to select occupants of restricted units and shall apply the occupancy preferences set forth herein. The Township hereby adopts the following occupancy preferences which shall be utilized by the Administrative Agent as part of the random selection process:
  - (a) If authorized in an agreement with a developer entered into pursuant to N.J.S.A. 52:27D-311(j), a preference of up to 50 percent of the restricted units in the affordable housing development shall be made for very-low-, low-, and moderate-income veterans who served in time of war or other emergency;
  - (b) A regional preference for very-low-income households, low-income

households, and moderate-income households that reside or work in Region 6;

(c) Subordinate to the regional preference, a preference for very-low-, low-, and moderate-income households that reside or work in New Jersey; and

(d) If authorized in a redevelopment plan or an agreement with the owner of the restricted unit, with respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or with respect to newly created restricted units created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement,

(2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of UHAC.

(3) The administrative agent shall utilize the buyer income eligibility requirements set forth in N.J.A.C. 5:80-26.8 for ownership restricted units and the tenant income eligibility requirements set forth in N.J.A.C. 5:80-26.14 for rental restricted units. All very-low-income households, low-income households, and moderate-income households shall be certified in accordance with N.J.A.C. 5:80-26.17.

M. Control periods for ownership restricted units and enforcement mechanisms.

(1) Control periods for ownership restricted units, including owner-occupied dwelling units that have been rehabbed, shall be in accordance with N.J.A.C. 5:80-26.6. Each ownership restricted unit shall remain subject to affordability controls for a period of at least 30 years and such affordability controls shall terminate on the first exit sale after the end of the affordability controls and following notice of intent to make an exit sale, unless otherwise extended by Ordinance in accordance with UHAC. Upon expiration of the control period, the recapture lien and recapture note shall be paid at closing at the first exit sale. Failure to pay the recapture note and recapture lien at shall cause both the buyer and seller to be jointly and severally liable for repayment.

(2) For ownership restricted units receiving an extension of affordability controls, the minimum control period shall be not less than 20 years from the date of the original term, provided that the total term, both the original term and the extended term, total at least 60 years.

(3) The affordability control period for a ownership restricted unit shall commence on the date the initial certified household takes title to the ownership restricted unit. The date of commencement of the control period shall be identified in the deed restriction.

(4) The affordability controls set forth in this chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to ownership restricted units. Any owner receiving a notice of intent to foreclose or a complaint in foreclosure must provide a copy to the Municipal Housing Liaison within three

- (3) business days of receipt.
- (5) A ownership restricted unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the ownership restricted unit meets all code standards upon each transfer of title that follows the expiration of the applicable minimum control period. If the ownership restricted unit is a deficient housing unit, the owner of the ownership restricted unit shall notify the Municipal Housing Liaison and the owner shall be required to make such improvements to the ownership restricted unit in order to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the ownership restricted unit meets all code standards prior to closing.
- (6) Deed Restrictions.
- (a) Before applying for the first construction permit for any portion of an affordable housing development, the developer or owner shall prepare a deed restriction in form set forth in Appendix P-1 of UHAC and in accordance with the requirements of N.J.A.C. 5:80-26.6(e), record the same, and submit to the Administrative Agent for the affordable housing development and the Municipal Housing Liaison a copy of the recorded deed restriction, along with a certification by the preparer of the deed restriction certifying that the deed restriction conforms with all of the requirements of UHAC and the deed restriction language set forth in Appendix P-1 of UHAC. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or owner with the records office of the County of Gloucester. If the documents required by this subsection (a) are not provided to the Administrative Agent and the Municipal Housing Liaison prior to the issuance of the construction permit, the Administrative Agent and/or the Municipal Housing Liaison may report this failure to the Division of Local Planning Services within the DCA pursuant to N.J.A.C. 5:80-26.19(f) and may take any other enforcement action permitted under the law. No seller or buyer of an ownership restricted unit shall be excused from adhering to the requirements of UHAC and this Chapter despite failure to record the deed restriction. If the affordable housing development is subject to a homeowner's association or condominium association, the deed restriction set forth in Appendix P-1 of UHAC shall be included in the governing documents of the homeowner's association or condominium association, and said governing documents shall specifically identify the ownership restricted units which are subject to affordability controls.
- (b) At closing for any ownership restricted unit, whether a sale or a resale, the developer or seller shall prepare and record the following, as applicable:
- (i) For ownership restricted units that are not 95/5 units: [1] deed restrictions in form set forth in Appendices A, C, D-1, D-3 & D-4, of UHAC, as applicable and must identify the date of commencement of the control period and the date on which the control period ends; and [2] a recapture note and recapture lien in the form set forth in Appendices D-2, L, M, N,

O & Q. The deed restriction, recapture note and recapture lien shall be filed by the developer or seller with the records office of the County of Gloucester.

- (ii) For ownership restricted units that are 95/5 units: [1] a deed restriction in the form set forth at Appendices B & C of UHAC, as applicable; and [2] a recapture note and recapture lien in the form set forth in Appendices G & H of UHAC. The deed restriction, recapture note and recapture lien shall be filed by the developer or seller with the records office of the County of Gloucester.
- (c) At closing for any ownership restricted unit, whether a sale or a resale, the developer or seller shall prepare and the buyer shall execute the certificates in the form set forth at Appendices D-3, J & K of UHAC, as applicable.
- (d) All covenances of ownership restricted units must be made by deeds and restrictive covenants, recapture notes and recapture liens in accordance with the forms prescribed in the applicable Appendix of UHAC and shall comply with the requirements of UHAC. No seller or buyer of a restricted unit shall be excused from adhering to the requirements of UHAC and this Chapter despite failure to record the deed and restrictive covenants. All ownership restricted units shall be deemed to have been made by deeds and restrictive covenants, recapture notes and recapture liens prescribed in UHAC, and the DCA, the Agency, the Township or any party may enforce the restrictions that would have been contained in such instruments as if such instruments had been, in fact, prepared and duly executed. A sale or transfer of ownership made other than in conformity with the requirements of UHAC and this Chapter is an authorized non-exempt sale; thus, all requirements, restrictions and liens associated with the unit being sold or transferred remain in effect until full satisfaction thereof and compliance with UHAC and this Chapter. No seller or buyer of an ownership restricted unit shall be excused from adhering to the requirements of UHAC and this Chapter despite failure to record the deed restriction, recapture lien or recapture note.
- (e) Within thirty (30) days of the closing, the developer or seller shall submit to the Administrative Agent for the affordable housing development and the Municipal Housing Liaison a copy of the recorded deed restriction, recorded recapture note and recorded capture lien, along with a certification by the preparer of the deed restriction certifying that these documents conform with all of the requirements of UHAC and the deed restriction language set forth in applicable Appendix of UHAC. In the event that a copy of the documents required by this subsection (e) are not provided to the Administrative Agent and the Municipal Housing Liaison within thirty (30) days of closing, Administrative Agent and/or the Municipal Housing Liaison may report this failure to the Division of Local Planning Services within the DCA pursuant to N.J.A.C. 5:80-26.19(f) and may take any other enforcement action permitted under the law.
- (f) All deed restrictions shall have priority over all mortgages on the property. In

accordance with N.J.A.C. 5:80-26.6(l), the entry and enforcement of any judgment of foreclosure on an ownership restricted unit shall not extinguish the affordability controls on the ownership restricted unit.

N. Price restrictions for ownership restricted units, homeowner association fees and resale prices. Price restrictions for ownership restricted units shall be in accordance with N.J.A.C. 5:80- 26.7, as may be amended and supplemented, including:

- (1) The initial purchase price and affordability average for an ownership restricted unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with this Chapter and UHAC.
- (3) All owners of an ownership restricted unit must provide at least 30 days notice to the Administrative Agent of a sale of an ownership restricted unit, unless the Administrative Agent and the municipal housing liaison, unless both agree in writing to a shorter notice period. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards. No resale of any ownership restricted unit shall be made without first obtaining written approval of the resale price from the Administrative Agent. The Administrative Agent shall notify the Municipal Housing Liaison of all sales within ten (10) days of closing. If a recapture payment from repayment of a recapture note or recapture lien is due and owing to the Township, the Administrative Agent shall notify the Municipal Housing Liaison writing of that fact, along with the amount of the recapture payment prior to closing.
- (4) Condominium fees, homeowner association fees and special assessments shall be calculated in accordance with the requirements of N.J.A.C. 5:80-26.7(e), as may be amended and supplemented.
- (5) The owners of ownership restricted units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Such application and the determination of the Administrative Agent shall be in accordance with N.J.A.C. 5:80-26.10, Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
- (6) Capital expenditures for non-cosmetic replacement of items of property or improvement to property that do not affect the maximum sale price will be factored into calculating a reduction to the recapture amount pursuant to N.J.A.C. 5:80-26.7(d)(1) and 5:80-26.10(c).

O. Buyer income eligibility.

- (1) Buyer income eligibility for ownership restricted units shall be in accordance with N.J.A.C. 5:80-26.8, as may be amended and supplemented, such that very-low-income units shall be reserved for households with a gross household income less than or equal to 30% of regional median income for Region 5, low-income units shall be reserved for households with a gross household income less than or equal to 50% of median income for Region 5 and moderate-income units shall be reserved

for households with a gross household income less than 80% of median income for Region 5. In the event that there is an insufficient number of low-income household purchases to permit prompt occupancy, the Administrative Agent shall comply with N.J.A.C. 5:80-26.8(a).

- (2) The Administrative Agent shall certify a household as eligible for a ownership restricted unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, in accordance with N.J.A.C. 5:80-26.8 and 5:80-26.17 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 35% of the household's certified monthly income. An Administrative Agent may exercise its discretion to approve a mortgage that exceeds 35% in accordance with the standards set forth in N.J.A.C. 5:80-26.8(b).

P. Limitations on indebtedness secured by ownership restricted unit; subordination.

- (1) Prior to incurring any indebtedness to be secured by a ownership restricted unit, the owner shall submit to the Administrative Agent notice of intent to incur indebtedness, along with documentary support as determined by the Administrative Agent. The Owner may not incur any indebtedness unless and until the Administrative Agent has determined and confirmed in writing that the proposed indebtedness complies with the provisions of UHAC.
- (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 ownership restricted 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. 5:80-26.7(c).

Q. Control periods for rental restricted units.

- (1) Control periods for rental restricted units shall be in accordance with N.J.A.C. 5:80-26.12, in accordance with the following, unless otherwise extended by the Township pursuant to an ordinance extending the same:
  - (a) Newly created rental restricted units shall be subject to affordability controls for a period of 40 years.
  - (b) Rental restricted units created as part of developments receiving Low Income Housing Tax Credits shall be governed by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.
  - (c) Any owner of a one-hundred percent affordable housing development comprised entirely of rental restricted units that elects to extinguish the existing deed restriction to enter into a new deed restriction and commence refinancing and/or habitation for the purpose of preservation, shall be subject to a new deed restriction of 30 years.
  - (d) In the event that any rental restricted unit is occupied at the end of the control

period, after the end date of the control period set forth in the deed restriction, the affordability controls shall remain in effect until: (i) the date on which the occupant household vacates the rental restricted unit; or (ii) in the event that the occupant household's household income exceeds 80% of the regional median income for Region 5, the later of either the next scheduled lease renewal or 60 days after confirming the household income exceeds 80%.

(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) Deed Restrictions.

(a) Prior to applying for the first construction permit for any portion of an affordable housing development, the developer or owner shall prepare a deed restriction in form set forth in Appendix P-2 of UHAC and in accordance with N.J.A.C. 5:80-26.12(e), record the same, and submit to the Administrative Agent for the affordable housing development and the Municipal Housing Liaison a copy of the recorded deed restriction, along with a certification by the preparer of the deed restriction certifying that the deed restriction conforms with all of the requirements of UHAC and the deed restriction language set forth in Appendix P-2 of UHAC. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or owner with the records office of the County of Gloucester. If documents required pursuant to this subsection (a) are not provided to the Administrative Agent and the Municipal Housing Liaison prior to issuance of the construction permit, the Administrative Agent and/or the Municipal Housing Liaison may report this failure to the Division of Local Planning Services within the DCA pursuant to N.J.A.C. 5:80-26.19(f) and may take any other enforcement action permitted under the law. No seller or buyer of a rental restricted unit shall be excused from adhering to the requirements of UHAC and this Chapter despite failure to record the deed restriction.

(b) No later than thirty (30) days after issuance of a Certificate of Occupancy for any structure containing rental restricted units, the developer shall prepare a deed restriction in form set forth in Appendix E of UHAC for said structure, record the same, and submit to the Administrative Agent for the affordable housing development and the Municipal Housing Liaison a copy of the recorded deed restriction, along with a certification by the preparer of the deed restriction certifying that the deed restriction conforms with all of the requirements of UHAC and the deed restriction language set forth in Appendix E of UHAC. 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 Gloucester. A copy of the filed document shall be provided to the Administrative Agent and Municipal Housing Liaison within 30 days of the receipt of a certificate of occupancy. If documents required by this subsection (b) are not provided to the Administrative Agent and the Municipal Housing Liaison within 30 days of receipt of the certificate of

occupancy, the Administrative Agent and/or the Municipal Housing Liaison may report this failure to the Division of Local Planning Services within the DCA pursuant to N.J.A.C. 5:80-26.19(f) and may take any other enforcement action permitted under the law. No seller or buyer of a restricted unit shall be excused from adhering to the requirements of UHAC and this Chapter despite failure to record the deed restriction.

- (4) A rental restricted unit shall remain subject to the affordability controls of this chapter, 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;
  - (c) The entry and enforcement of any judgment of foreclosure or grant of a deed in lieu of foreclosure; or
  - (d) The end of the control period, until the occupant household vacates the rental restricted unit, or is certified as over-income and the affordability controls are released in accordance with UHAC.
- (5) All rental restricted units shall be required to obtain a continuing certificate of occupancy or a certified statement from the building inspector stating that the unit meets all code standards upon each new tenant, except where a certificate of occupancy or a continuing certificate of occupancy has been issued in the preceding two years.

R. Rent restrictions for rental restricted units; leases.

- (1) All rents shall be set in accordance with N.J.A.C. 5:80-26.13. A written lease shall be required for all rental restricted 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. The lease must specify which tenant-paid utilities are included in the utility allowance and include the most recent chart at the time of lease-up approved by DCA for its Section 8 program. The allowance for utilities must be consistent with utility allowance approved by DCA for its Section 8 program. All lease provisions must comply with applicable law.
- (2) A copy of the current lease for each rental restricted unit shall be provided to the Administrative Agent and the Municipal Housing Liaison within 10 business days of execution.
- (3) The Administrative Agent shall set the initial rent for a rental restricted unit in accordance with UHAC and this Chapter. Initial rent shall be calculated so as to not exceed 30% of the eligible monthly income for the household size, determined in accordance with N.J.A.C. 5:80-26.4. For assisted living facilities, maximum rents may be up to 80% of eligible monthly income for the household size, inclusive of rent, food and services. No additional fees, operating costs, or charges shall be added to the approved rent (except in the case of units in assisted living residences, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

- (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 chapter.
- (5) The rent levels of very-low-income units, low-income units and moderate-income units may be increased annually, on the anniversary date of the tenancy of the certified household occupying the rental restricted unit, transitional housing unit, special needs housing unit or supportive housing unit, to an amount calculated pursuant to N.J.A.C. 5:80-26.13(b) and (c), provided that any increase shall not exceed five percent (5%) in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be governed by the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40. All rental increases must comply with the requirements of N.J.A.C. 5:80-26.13.
- (6) Developers and/or owners of affordable housing developments containing restricted rental units shall comply with the following:
  - (a) Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
  - (b) Notify the Administrative Agent of any change to or increase in any applicable fees imposed upon tenants.
  - (c) Notify the Administrative Agent of any change as to the utilities that will be included in the rent.
  - (d) Ensure that the utility configuration established at the start of the rent-up process is not altered at any time throughout the restricted period.
  - (e) Notify the Administrative Agent of any change and provide to the Administrative Agent a proposed form of lease containing such changes.
  - (f) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

S. Tenant income eligibility.

- (1) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
  - (a) Very-low-income units shall be reserved for households with a gross household income less than or equal to 30% of median income for Region 5.
  - (b) Low-income units shall be reserved for households with a gross household

income less than or equal to 50% of median income for Region 5.

(c) Moderate-income units shall be reserved for households with a gross household income less than 80% of median income for Region 5.

(2) The Administrative Agent shall certify a household as eligible for a rental restricted unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the restricted unit, and the rent proposed for the restricted 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. 5:80-26.17, 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 Subsection R(2)(a) through (e) above with the Administrative Agent, who shall counsel the household on budgeting.

T. Additional Requirements for Rental Restricted Units. An owner of any development containing rental restricted units shall comply with the requirements of N.J.A.C. 5:80-26.19(e). All rental restricted units shall be occupied within a reasonable amount of time from issuance of the original certificate of occupancy and be re-leased within a reasonable amount of time upon the vacating of the restricted unit by a tenant. A reasonable amount of time shall be presumptively 60 days, unless otherwise set forth in N.J.A.C. 5:80-26.19(f).

U. Conversions. Each affordable housing unit created through the conversion of a nonresidential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

V. Supportive Housing Units and Special Needs Housing Units. Supportive housing units and special needs housing units exempt from UHAC shall be exempt from these requirements. Bedroom and income distribution requirements for Supportive Housing Units and Special

Needs Housing Units shall be in accordance with the requirements of 5:80-26.4(e), (f) and (g). The affirmative marketing, occupancy selection and administration of supportive housing units and special needs housing units shall be in compliance with the contract or regulations of the governmental entity having regulatory authority over the dwelling unit or any applicable sponsoring program.

- (1) The service provider for the Supportive housing units and special needs housing units may act as the Administrative Agent if the service provider otherwise satisfies the requirements to be licensed as an Administrative Agent. The service provider shall report information to the Municipal Housing Liaison, upon request, in order to allow the Municipal Housing Liaison to comply with the reporting requirements of the Act and the Fair Housing Act Regulations.

W. Transitional Housing. Transitional housing units shall be governed by the rules of their sponsoring programs.

X. Assisted Living Facilities. Assisted Living Facilities with Medicaid beds shall ensure that all Medicaid beds shall comply with the following:

- (1) A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
- (2) The Medicaid beds shall comply with UHAC with the following exceptions:
  - (a) Affirmative marketing (N.J.A.C. 5:80-26.16), provided that the Medicaid beds are restricted to recipients of Medicaid waivers;
  - (b) Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income;
  - (c) The owner or operator shall comply with all reporting requirements of the Administrative Agent. The Township shall designate one or more Administrative Agents to administer the Medicaid beds; and
  - (d) The combined cost of rent, food, and services may not exceed 80 percent of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4.
- (3) No additional fees, operating costs, or charges may be added to the approved rent (except in the case of units in assisted living residences, for the customary charges for food and services) without the express written approval of the Administrative Agent.
- (4) Maximum rents shall comply with UHAC and this Section 233-95.

Y. Discrimination Prohibited. Developers, owners and property managers shall not

discriminate in the sale or leasing of any affordable units in violation of the New Jersey Law Against Discrimination, N.J.A.S.A. 10:5-1 et seq. Or the Federal Fair Housing Laws. Developers, owners and property managers are also prohibited from requiring any parent, guardian or other third person to act as a guarantor for any affordable unit.

**§ 67-4. Existing Affordable Units.**

- A. Any affordable unit that qualifies as a “prior round unit” as the term is defined in N.J.A.C. 5:80-26.2 shall be subject to the UHAC regulations that were in effect prior to December 19, 2024 or other affordability controls that were imposed on the affordable unit at the time of its creation.
- B. Extension of Expiring Controls. The Township reserves the right to extend any affordability controls upon providing notice and making the payment required in N.J.A.C. 5:80-26.6(g)(6)N.J.A.C. 5:80-26.12(f). In the event that the Township or the Municipal Housing Liaison notifies any developer or owner that it intends to extend the affordability controls applicable to any affordable unit, the payment made by the Township shall be used to rehabilitate the affordable unit.
- C. Maintenance of Units. All rental restricted units, regardless of when they were created, shall be required to obtain a continuing Certificate of Occupancy or a certified statement from the building inspector stating that the restricted unit meets all code standards upon each new tenant, except where a certificate of occupancy or a continuing certificate of occupancy has been issued in the preceding two years. All ownership restricted units, regardless of when they were created, shall be required to obtain a continuing Certificate of Occupancy or a certified statement from the building inspector stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period.
- D. Rehabilitation. The Township shall undertake a rehabilitation program in accordance with the adopted Rehabilitation Manual. The Rehabilitation Manual is available for inspection in the Office of the Municipal Housing Liaison. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very-low-income households, low-income households and moderate-income households. Households determined to be very very-low-income households, low-income households and moderate-income households may participate in a rehabilitation program if they occupy a deficient housing unit that is an ownership restricted unit, subject to the requirements set forth in the Rehabilitation Manual. The Township shall designate one or more Administrative Agents to administer the rehabilitation program.
- E. Existing Assisted Living Facilities with Medicaid Beds shall comply with the requirements set forth in Section 67-3.X. above.

**§ 67-5. Municipal Housing Liaison.**

- A. The position of Municipal Housing Liaison for the Township of Harrison is hereby

established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Mayor and Township Committee.

- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Harrison.
- C. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in UHAC and the Fair Housing Act Regulations, and shall be approved by the Division, or be in the process of getting approval, and fully or conditionally.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Harrison, 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) Overseeing the implementation of the Affirmative Marketing Plan and affordability controls by the administrative agents, or if no administrative agent is selected for an affordable unit, the implementation of the Affirmative Marketing Plan and affordability controls.
  - (3) When applicable, supervising any contracting Administrative Agent.
  - (4) Monitoring the status of all affordable units in the Township of Harrison's Fair Share Plan;
  - (5) Compiling, verifying and submitting annual reports as required by the Act, UHAC or the Fair Housing Act Regulations;
  - (6) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
  - (7) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the DCA; and
  - (8) All other obligations set forth in UHAC or the Act that is the responsibility of the Municipal Housing Liaison.

**§ 67-5. Administrative Agent.**

- A. The Township shall designate by resolution of the Mayor and Township Committee one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:99-7.1 to 5:99-7.5 and UHAC. All Administrative Agents shall attend all training and satisfy all other educational requirements set forth in UHAC that is applicable to an Administrative Agent and shall submit proof of compliance therewith annually on or before December 31, to the Municipal Housing Liaison. In the event that any owner or developer wishes to change Administrative Agents, any such

change shall be in accordance with N.J.A.C. 5:80-26.18, N.J.A.C. 5:99-7.3 and N.J.A.C. 5:99-7.4 and the change must be approved in writing by the Municipal Housing Liaison. In order to obtain approval from the Municipal Housing Liaison for an Administrative Agent, the developer, property manager or owner shall submit the following:

- (1) A resume or other evidence of experience as an administrative agent; and
- (2) A valid and current administrative agent certificate as required pursuant to N.J.S.A. 52:27D-321; and
- (3) Evidence of satisfactory completion of the DCA's Education Program for each individual serving as an administrative agent as described at N.J.A.C. 5:99-9; and
- (4) A list of all affordable housing projects for which the person or entity is currently serving or has served as an administrative agent; and
- (5) A list of affordable housing projects for which the administrative agent has been removed as administrative agent, and the reason therefore; and
- (6) The draft operations manual that the Administrative Agent proposes to utilize in the administration of the affordable units.

Approval of any Administrative Agent by the Municipal Housing Liaison shall be in writing. The denial of approval for an Administrative Agent shall be in writing setting forth the reasons therefore.

- B. All affordable units, whether or not subject to UHAC and regardless of when they were created, shall be administered by an Administrative Agent approved by the Township. For all new affordable housing developments, the developer must execute an agreement with a Township approved Administrative Agent and submit a copy of the same to the Municipal Housing Liaison, prior to applying for a Certificate of Occupancy for any portion of the affordable housing development.
- 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). If the operations manual is prepared by the Administrative Agent, the Administrative Agent shall make such changes to the operations manual as are requested by the Municipal Housing Liaison to permit adoption by the governing body and to ensure compliance with the Act, UHAC, the Fair Housing Act Regulations, and this Chapter 67.
- 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. 5:80-26.15, 17 and 19 thereof, and N.J.A.C. 5:99-7.1 and 7.2, which includes, but is not limited to:
  - (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the DCA;

- (2) Affirmative marketing;
- (3) Household certification;
- (4) Affordability controls;
- (5) Records retention;
- (6) Resale and re-rental;
- (7) Processing requests from restricted unit owners or renters of restricted units;
- (8) Preparing and submitting all reports and other documents required to be prepared under this Chapter, UHAC, the Act or the operations manual, and any report requested by the Municipal Housing Liaison; and
- (9) Enforcement, although the ultimate responsibility for retaining controls on the v units rests with the Municipal Housing Liaison.
- (10) The Administrative Agent shall notify the Municipal Housing Liaison in writing of a violation of any of the regulations governing the affordable unit by an owner, developer or tenant, including a violation of this Chapter, UHAC the Act or the Fair Housing Act Regulations, within five (5) business days of the occurrence. Following submission of a notice of violation, the Administrative Agent shall provide the Municipal Housing Liaison with monthly reports of the status of all violations until the violation(s) have been resolved. The Administrative Agent shall, as delegated by the Mayor and Township Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.
- (11) Reports. The Administrative Agent shall provide all reports required to be provided by an administrative agent under UHAC or the Fair Housing Act Regulations or this Chapter. At a minimum, the Administrative Agent shall provide the following written reports to the Municipal Housing Liaison.
  - (a) Initial Occupancy Report. For each newly created affordable unit, the Administrative Agent shall provide a written report setting forth, for each affordable unit:
    - (i) the date of the initial occupancy;
    - (ii) the amount of the sales price or rent charged;
    - (iii) the amount of all other fees charged, including but not limited to pet fees, condominium fees, and parking fees;
    - (iv) the name(s) of the initial occupants and their household certifications; and
    - (v) A certification from the Administrative Agent, certifying as to the accuracy of the information contained in the initial occupancy report.

The Administrative Agent shall update the initial occupancy report quarterly until

an initial occupant has been identified for all of the affordable units within a newly constructed affordable housing development and an occupancy Report has been provided to the Municipal Housing Liaison. Quarterly reports shall be due on January 1, April 1, July 1, and October 1 of each year that an initial occupancy report is required to be provided.

- (b) Semi-Annual Reports. The administrative agent shall provide a written report semi-annually to the Municipal Housing Liaison which shall contain all of the information required to be reported by the municipality pursuant to *N.J.S.A. 52:27D-329.4(a) and (b)* and *N.J.A.C. 5:99-5.3*, as it relates to an affordable housing development and/or a affordable unit. The semi-annual report shall be due on June 30, and December 31 of each year so long as the affordable unit remains subject to affordability controls.
- (c) Upon request from the Municipal Housing Liaison, the administrative agent shall promptly provide access to all information, books and records regarding all marketing, leasing and administration activities relating to the affordable units.

(12) **The Administrative Agent** shall securing from the Township quaterly a list of all affordable units for which tax bills are mailed to absentee owners of ownership restricted units, and notifying all such owners that they must either move back into or sell their ownership restricted units unit.

(13) **The Administrative Agent** shall notify the Municipal Housing Liaison of the owner's intent to sell an ownership restricted unit prior to the date of the sale.

#### **§ 67-6. Enforcement of affordable housing regulations.**

- A. Upon the occurrence of a violation of the Act, UHAC, the Fair Housing Act Regulations, this Chapter or any other regulations governing the affordable unit by an owner, developer or tenant, the Administrative Agent, the Municipal Housing Liaison and Township shall have all remedies provided at law or equity, including but not limited to notifying the DCA of the violation, 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. Upon the occurrence of a violation of the Act, UHAC, the Fair Housing Act Regulations, this Chapter or any other regulations governing the affordable unit by an Administrative Agent, the Municipal Housing Liaison and the Township, shall have all remedies provided at law or equity, including but not limited to removing the Administrative Agent, notifying the DCA of the violation, municipal fines, injunctive relief to prevent further violation of the regulations, and specific performance.
- C. After providing written notice of a violation to an owner, developer or tenant of a very-low-income unit, low-income unit, or moderate- income unit, and if applicable, the

Administrative Agent, and advising the owner, developer or tenant, and if applicable, the Administrative Agent, of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant, and if applicable, the Administrative Agent, for any violation that remains uncured for a period of 60 days after service of the written notice:

- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 and/or N.J.S.A. 52:27D-321(i)(4) alleging a violation, or violations, of the regulations governing the restricted housing unit. If the owner, developer or tenant, or the Administrative Agent, is found by the court to have violated any provision of the regulations governing affordable housing units, including but not limited to this Chapter, UHAC, the Act or the Fair Housing Act Regulations, the owner, developer or tenant, or the Administrative Agent shall be subject to one or more of the following penalties, at the discretion of the court:
  - (a) A fine of not more than \$1,250 or the maximum allowed by law 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 units, payment into the Township of Harrison 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 affordable unit in violation of the regulations governing affordable units, payment of an innocent tenant's reasonable relocation costs, as determined by the court; and payment into the Township's Affordable Housing Trust Fund of the gross amount of rent illegally collected;
- (2) An owner, developer or manager of a property shall be found in violation of UHAC, including by keeping an affordable unit vacant, shall be subject to the penalties set forth in N.J.A.C. 5:80-26.19(f).

D. The Administrative Agent for the Municipality or the Municipal Housing Liaison shall have the authority to levy fines against the owner of an affordable development for instances of noncompliance with advertising requirements set forth in N.J.S.A. 52:27D-321.6, following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000 as set forth in N.J.S.A. 52:27D-321.6(e)(2), or as otherwise set forth in the fine schedule adopted by the Executive Director of HMFA in accordance with N.J.S.A. 52:27D-321.6(e)(3). All such fines shall be deposited into the Affordable Housing Trust Fund.

E. 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 affordable 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 affordable unit.

- (1) Any judgment of foreclosure entered pursuant to this Chapter, UHAC, or the Act, shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very-low-income unit, low-income unit 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. 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.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

**§ 67-7. Appeals.**

Appeals from all decisions of an Administrative Agent designated pursuant to this chapter shall be filed in writing with the Township. A decision by the Municipal Housing Liaison may be appealed to the Division of Local Planning Services within the DCA.