Housing Element & Fair Share Plan
City of Salem, New Jersey

NJ DEPARTMENT OF CommunityAffairs

LPS LOCAL PLANNING SERVICES

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SALEM, N.J.

Housing Element & Fair Share Plan

City of Salem, New Jersey

Prepared for:
City of Salem, Salem County

Prepared by:
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Local Planning Services

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Simran S. Riar, Team Co-Lead

Ramond Joseph, AICP, NJPP License Number 00640300

The original document, on file with the State of New Jersey, has been appropriately signed and sealed in accordance with the provisions of N.J.S.A. 45:14A-12.

Acknowledgments

Mayor

Jody Veler, ***Mayor***

City Council

Tim Gregory, ***President***
Jamal Long, ***President Pro Tempore***
Sharen Cline
Earl Gage
Vaughn Groce
Sharon Kellum
Cody Loatman
Ceil Smith

Planning Board

Virginia Jared, ***Chair***
Mayor Jody Veler
Sean M. Brown, MPA
Earl Gage
Gregory Morris
Jennifer Jones
William Corbin
Benjamin Ford
Danelle McRae

Working Committee Members

Sharen Cline, ***Councilwoman***
Sean M. Brown, ***C&ED Director***
Charles Bailey, ***former Director***
Ben Angeli, ***City Clerk***
Michael Kolber, ***BRS Associates***
Claudia Bitran, ***Thriven Design***
Bach Associates, ***Planning Consultant***

Local Planning Services Staff

Keith Henderson PP, AICP, ***Director***
Gina Fischetti PP, AICP, ***Chief Counsel***
Ramond Joseph, PP, AICP, ***Team Co-Lead***
Simran Riar, ***Team Co-Lead***
Joseph Naylor, ***GIS Specialist***

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Housing Element & Fair Share Plan

Housing Objectives

- Continue the City program to rehabilitate substandard housing.
- Streamline registration, acquisition, and rehabilitation/disposition of vacant properties.
- Promote infill housing and rehabilitation of existing housing.
- Establish a vacant lot and neighborhood clean-up program.
- Establish a policy to maintain and increase homeownership by moderate- and middle-income households.
- Explore use of land banking to promote infill development, homeownership, and eliminate vacant and substandard housing.

Background

The process of updating the municipal Master Plan requires a housing element as part of the mandated elements to enact zoning ordinances. This housing element shall be pursuant to section 10 of P.L. 1985, c.222 (C.52:27D-310), including but not limited to, residential standards and proposals for the construction and improvement of housing. The requirements of this section are outlined below.

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
d. An analysis of the existing and probable future employment characteristics of the municipality;
e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);

f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D- 329.20);
h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Affordable Housing Background

In 1975, a New Jersey Supreme Court decision in the case of *Southern Burlington County NAACP v. Mount Laurel Township* banned the use of use of exclusionary zoning, zoning designed to exclude low-income potential residents and was the first of several steps taken towards the expansion of affordable housing in our state.

Known as Mount Laurel I, this decision and subsequent actions to legislate affordable housing in 1983 (Mount Laurel II), as well as the adoption of the Fair Housing Act in 1985, set in motion a policy response and the creation of the Council on Affordable Housing (COAH) to administer and oversee affordable housing implementation at the municipal level.

At the state level, housing obligations are calculated for each municipality. Known as their fair share obligation, municipalities are required to adopt Fair Share Plans to state their plans for meeting them. Different affordable housing “rounds” were set forth as follows:

1. First Round: 1986-1992
2. Second Round: 1993-1999
3. Third Round: 2000-2025

Following the enactment of P.L. 2024, c.2, signed into law by Governor Murphy on March 20, 2024, COAH was officially abolished, and the Fourth Round of affordable housing obligations was initiated. The Department of Community Affairs issued a report, titled *Affordable Housing Obligations for*

2025-2035 (Fourth Round) Methodology and Background, that outlined the updated determination methodology used to set a new round of obligations, which were attached to the report.

The City of Salem's obligations, as detailed in the report, are as follows:

- Present Need: 10 units
- Prospective Need: 3 units

Demographic Analysis

The City's 1974 Comprehensive Plan included projections for the population to reach upwards of 10,000 by the year 1990. The City's population reached a peak of 9,050, but with a decline in industry the population has sustained a steady decline since the 1950 U.S. Census. Today the population stands an estimated 5,315 – a decline of 8.5% from the 2000 Census showing the trend continuing onto today. Without the introduction of employment centers in and around the City, as expanded upon in the Employment Analysis portion of this report, or the increase of occupied tenable housing stock, the population is likely to continue to decline along this trend. The South Jersey Transportation Planning Organization (SJTPO) is the Metropolitan Planning Organization (MTO) for the region. As part of their Forward 2050 initiative, population projections for Salem in the year 2050 stand at 5,254 indicating continued population decline.

The median age of 36.1 years is younger than the New Jersey median age of 40.1. Over a quarter of Salem's population is younger than 20 years old, with children living in 505 of the City's 2,216 households.

The rate of college and high school graduates is significantly lower than that of the surrounding county and the state at large, with almost 20% of the City's population 25 years and older not having obtained a high school diploma or equivalent. This is a limiting factor in the potential of residents to seek employment in a market that demands specialization associated with advanced job training. As the population trends younger, a disparity can be observed between the demand for skilled labor and the lack of higher education or vocational training to meet that demand. Coupled with the scarce employment centers in and around the City, this is likely to yield in continued increases in the rate of unemployment unless actions are taken to increase access to job training and employment.

The household analysis demonstrates a need for housing that will allow for residents to age in place, allowing them to upsize and downsize according to family planning and to account for differences in housing requirements between single occupants, married couples, young single-parent families, and nontraditional families.

Population

	2000	2010	2020	2023	2000-2023 Change
Total population	5,806	5,146	5,296	5,315	- 491 (- 8.5%)

Table HE 1: Population Trend, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
Total population	5,315	100.0%
Male	2,278	42.9%
Female	3,037	57.1%

Table HE 2: Sex, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
Total population	5,315	100.0%
Under 5 years	614	11.6%
5 to 9 years	439	8.3%
10 to 14 years	267	5.0%
15 to 19 years	134	2.5%
20 to 24 years	452	8.5%
25 to 34 years	641	12.1%
35 to 44 years	729	13.7%
45 to 54 years	348	6.5%
55 to 59 years	395	7.4%
60 to 64 years	319	6.0%
65 to 74 years	567	10.7%
75 to 84 years	235	4.4%
85 years and over	175	3.3%
Median age (years)	36.1	(X)
Under 18 years	1,454	27.4%
16 years and over	3,995	75.2%
18 years and over	3,861	72.6%
21 years and over	3,761	70.8%
62 years and over	1,219	22.9%
65 years and over	977	18.4%
18 years and over	3,861	3,861
Male	1,689	43.7%
Female	2,172	56.3%
65 years and over	977	977
Male	428	43.8%
Female	549	56.2%

Table HE 3: Age, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
Total population	5,315	100.0%
White	1,829	34.4%
Black or African American	3,023	56.9%
American Indian & Alaska Native	46	0.9%
Asian	25	0.5%

	Estimate	Percentage
Native Hawaiian & Other Pacific Islander	0	0.0%
Some Other Race	42	0.8%
HISPANIC OR LATINO AND RACE		
Hispanic or Latino (of any race)	465	8.7%
Not Hispanic or Latino	4,850	91.3%

Table HE 4: Race, Source: American Community Survey 5-Year Estimates

	Salem City	Salem County	New Jersey
Population 25 years and over	3,367	46,984	6,482,223
Less than 9th grade	6.60%	4.3%	4.7%
9th to 12th grade, no diploma	12.70%	4.5%	4.6%
High school graduate (includes equivalency)	46.20%	43.5%	25.2%
Some college, no degree	17.30%	14.5%	15.2%
Associate's degree	5.90%	8.2%	6.7%
Bachelor's degree	7.10%	14.6%	25.9%
Graduate or professional degree	4.20%	10.5%	17.6%
High school graduate or higher	80.60%	91.3%	90.7%
Bachelor's degree or higher	11.30%	25.0%	43.5%

Table HE 5: Education, Source: American Community Survey 5-Year Estimates

Households

Over half (1,135) of Salem's 2,216 households are families, with 505 households having children of the householder under 18 years old. A majority of these family households, over 65%, are headed by female householders with no spouse present. Households headed by a male with no spouse present are 73.1% likely to have a child under 18 years of age in the home.

The other half of households consist chiefly of the householder living alone. With an average nonfamily household size of 1.08, and roughly 65% of nonfamily households including a person over the age of 60, it can be concluded that a majority of single occupant households are older residents. Roughly half of the households consisting of married couples also include a person over the age of 60.

These figures illustrate a diverse range of occupancy characteristics, ranging from single parent households with several children and married couples with children to single and married older persons living by themselves. Given the likely overlap between households with children and those with adults over the age of 60, several of these households can be considered multi-generational.

Based on these figures, it is recommended that future housing account for the range of household typologies that exist in the City currently, as well as plan for age-in-place solutions that would allow

for young families to eventually upsize and downsize their housing if they choose to reside and grow in Salem. This is especially important given the median household income for the City's residents, which at $40,650 stands at less than half that of the county ($87,294) and the state ($99,781). With rapidly increasing housing costs, this disparity highlights the need for affordable housing options.

	Total	Married-couple family household	Male householder, no spouse present, family household	Female householder, no spouse present, family household	Nonfamily household
HOUSEHOLDS					
Total households	2,216	529	108	498	1,081
Average household size	2.39	3.26	4.34	3.89	1.08
FAMILIES					
Total families	1,135	529	108	498	(X)
Average family size	3.39	3.16	3.42	3.62	(X)
AGE OF OWN CHILDREN					
Households with own children of the householder under 18 years	505	94	79	332	(X)
Under 6 years only	34.5%	44.7%	73.4%	22.3%	(X)
Under 6 years and 6 to 17 years	19.4%	52.1%	0.0%	14.8%	(X)
6 to 17 years only	46.1%	3.2%	26.6%	63.0%	(X)
SELECTED HOUSEHOLDS BY TYPE					
Households with one or more people under 18 years	26.8%	30.6%	73.1%	66.7%	1.9%
Households with one or	50.1%	52.4%	18.5%	22.9%	64.8%

more people 60 years and over					
Households with one or more people 65 years and over	40.1%	(X)	(X)	(X)	53.4%
Householder living alone	46.5%	(X)	(X)	(X)	95.4%
65 years and over	25.6%	(X)	(X)	(X)	52.5%

Table HE 6: Household Characteristics, Source: American Community Survey 5-Year Estimates

	Salem City	Salem County	New Jersey
Occupied housing units	2,216	25,207	3,538,457
HOUSEHOLD INCOME IN THE PAST 12 MONTHS (IN 2023 INFLATION-ADJUSTED DOLLARS)			
Less than $5,000	1.6%	2.7%	2.7%
$5,000 to $9,999	0.9%	3.6%	1.6%
$10,000 to $14,999	18.5%	4.0%	2.8%
$15,000 to $19,999	10.1%	2.3%	2.4%
$20,000 to $24,999	4.8%	3.2%	2.7%
$25,000 to $34,999	11.1%	7.9%	5.2%
$35,000 to $49,999	10.1%	8.7%	7.9%
$50,000 to $74,999	20.6%	11.2%	13.2%
$75,000 to $99,999	5.5%	15.3%	11.6%
$100,000 to $149,999	10.9%	23.2%	18.1%
$150,000 or more	6.1%	18.1%	31.9%
Median household income (dollars)	40,650	87,294	99,781

Table HE 7: Household Incomes, compared to County and State data, Source: American Community Survey 5-Year Estimates

Housing Analysis

The City of Salem is known to have streets lined with picturesque historic housing, complete with brick architectural elements and density typically associated with quaint walkable neighborhoods. Whereas this is an asset to the City and its residents, this also presents an issue of older homes constituting the bulk of Salem's housing stock. Over 60% of the occupied housing units were constructed before the 1980's, nearing or exceeding 50 years in age and requiring upgrades or repairs typically associated with older homes and potential deferred maintenance.

There are in excess of 500 vacant units, constituting nearly a quarter of the total housing units in the City. While a cause for concern, the vacant units are an opportunity to acquire, rehabilitate, and reintroduce these long-neglected units into the housing stock. The City has been actively working towards registering vacant buildings and establishing a land bank to aid in designating community partners to rehabilitate city-owned properties.

Of the housing that is occupied, virtually none lacks complete plumbing or kitchen facilities. Other than 15 units, virtually none of the occupied housing stock is overcrowded, which is to say that there are generally no more than 1 occupant per room in these households. The occupied housing stock, therefore, meets basic necessities that are associated with complete living standards.

Although the occupied housing stock fulfills basic necessities as observed at this point in time, a larger issue of cost-burdened households can be observed by comparing housing costs with household incomes. When monthly housing costs exceed 30% of monthly income, the household is considered cost-burdened. In Salem, 61% of households fall within these parameters.

An increasing percentage of housing units are renter-occupied, standing at 65.3% when compared to 59.8% at the beginning of the century. Much of this can be attributed to the loss of 182 owner-occupied units within this timeframe. Within the same time, the county of Salem's vacant units has grown by 168. Elimination of housing stock in decrepit condition, as well as the gradual transition of unoccupied housing to vacant units as residents age out or move away has played a role in the decline of owner-maintained housing units.

The value of the owner-occupied units stands at a median value of $69,300. While much lower in cost than many of the homes available for sale in the current market, this number is more a consequence of lower land values and improvements, coupled with much of the housing stock being bought a longer time ago. More than half of these homes do not have a mortgage, owing to the fact that they are owned outright and for have been owned by the same entity for longer than the traditional 30-year life of a mortgage. This, in turn, means that these homes do not fluctuate in value as much as they would in a "hot" real estate market where land is at a premium, homes are more frequently bought and sold, and repairs are subsequently being made for preparation for sale. While this may seem to be an indicator of a depressed real estate market, it presents an opportunity for lower-priced homes to remain somewhat more affordable to renters who may one day desire to purchase a home in Salem.

Housing Inventory & Characteristics

	Occupied housing units	Percent occupied housing units
Occupied housing units	2,216	100.0%
UNITS IN STRUCTURE		
1, detached	855	38.6%
1, attached	415	18.7%
2 apartments	190	8.6%
3 or 4 apartments	341	15.4%
5 to 9 apartments	69	3.1%
10 or more apartments	333	15.0%
Mobile home or other type of housing	13	0.6%
YEAR STRUCTURE BUILT		
2020 or later	6	0.3%
2010 to 2019	79	3.6%
2000 to 2009	52	2.3%
1980 to 1999	202	9.1%
1960 to 1979	445	20.1%
1940 to 1959	622	28.1%
1939 or earlier	810	36.6%
ROOMS		
1 room	68	3.1%
2 or 3 rooms	252	11.4%
4 or 5 rooms	961	43.4%
6 or 7 rooms	566	25.5%
8 or more rooms	369	16.7%
BEDROOMS		
No bedroom	83	3.7%
1 bedroom	423	19.1%
2 or 3 bedrooms	1,414	63.8%
4 or more bedrooms	296	13.4%

Table HE 8: Housing Inventory, Source: American Community Survey 5-Year Estimates

	2000	2010	2020	2023	2000-2023 Change
Total units	2,867	2,633	2,467	2,889	+ 22 (+ 0.8%)
Occupied units	2,362 (82.4%)	2,157 (81.9%)	2,093 (84.8%)	2,216 (76.7%)	- 146 (- 5.7%)
Vacant units	505 (17.6)	476 (18.1%)	374 (15.2%)	673 (23.3%)	+ 168 (+ 5.7%)

Table HE 9: Vacancy and Occupancy Rates, Source: American Community Survey 5-Year Estimates

	2000	2010	2020	2023	2000-2023 Change
Total occupied	2,362	2,138	2,011	2,216	- 146 (- 6.2%)
Owner-occupied	950 (40.2%)	818 (38.3%)	679 (33.8%)	768 (34.7%)	- 182 (- 5.5%)
Renter-occupied	1,412 (59.8%)	1,320 (61.7%)	1,332 (66.2%)	1,448 (65.3%)	+ 36 (+ 5.5%)

Table HE 10: Housing Tenure, Source: American Community Survey 5-Year Estimates

Housing Costs

	Salem City	Salem County	New Jersey
MONTHLY HOUSING COSTS			
Less than $300	6.4%	0.8%	1.6%
$300 to $499	5.6%	3.8%	2.3%
$500 to $799	24.4%	11.3%	4.9%
$800 to $999	16.3%	10.6%	5.8%
$1,000 to $1,499	28.3%	28.2%	20.6%
$1,500 to $1,999	12.8%	18.7%	19.7%
$2,000 to $2,499	4.2%	11.9%	14.3%
$2,500 to $2,999	0.2%	5.5%	10.0%
$3,000 or more	1.6%	7.0%	19.6%
No cash rent	0.3%	2.3%	1.2%
Median (dollars)	981	1,404	1,848

Table HE 11: Monthly Housing Costs, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
Owner-occupied units	768	768
Housing units with a mortgage	350	45.6%
Housing units without a mortgage	418	54.4%

Table HE 12: Number of occupied housing units with mortgages, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
Owner-occupied units	768	768
Less than $50,000	238	31.0%
$50,000 to $99,999	266	34.6%
$100,000 to $149,999	179	23.3%
$150,000 to $199,999	49	6.4%
$200,000 to $299,999	13	1.7%
$300,000 to $499,999	23	3.0%

	Estimate	Percentage
$500,000 to $999,999	0	0.0%
$1,000,000 or more	0	0.0%
Median (dollars)	69,300	(X)

Table HE 13: Value of owner-occupied units, Source: American Community Survey 5-Year Estimates

	Salem City	Salem County	New Jersey
GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME (GRAPI)			
Occupied units paying rent (excluding units where GRAPI cannot be computed)	1,436	6,386	1,217,811
Less than 15.0 percent	17.3%	10.0%	12.6%
15.0 to 19.9 percent	6.7%	9.8%	12.6%
20.0 to 24.9 percent	7.0%	16.6%	11.9%
25.0 to 29.9 percent	8.0%	12.1%	11.9%
30.0 to 34.9 percent	10.0%	4.2%	8.9%
35.0 percent or more	51.0%	47.2%	42.2%
Not computed	(X)	(X)	(X)

Table HE 14: Percentage of cost-burdened households, Source: American Community Survey 5-Year Estimates

Housing Conditions

	Estimate
Occupied housing units	2,216
1.00 or less	2,201
1.01 to 1.50	0
1.51 or more	15

Table HE 15: Number of overcrowded units, Source: American Community Survey 5-Year Estimates

	Estimate	Percentage
With complete plumbing facilities	2,203	99.4%
With complete kitchen facilities	2,203	99.4%

Table HE 16: Units with complete plumbing and kitchen facilities, Source: American Community Survey 5-Year Estimates

Affordable Housing Inventory

Salem City's affordable housing inventory reflects a diverse portfolio of publicly subsidized and deed-restricted units addressing both present- and prospective-need obligations. The Salem Housing Authority manages approximately 180 public housing units across three developments— Westside Court, Broadway Tower, and Anderson Drive—serving extremely low- and very low-income families, seniors, and individuals with disabilities. The City of Salem's affordable rental housing stock also includes several key developments supported by the U.S. Department of Agriculture (USDA), the New Jersey Housing and Mortgage Finance Agency (NJHMFA), the HOME-CHDO Production Program (for Community Housing Development Organizations), the Neighborhood Preservation Balanced Housing Program, the HOME Housing Production Investment Fund, the New

Jersey Affordable Housing Trust Fund, and the federal National Housing Trust Fund (NHTF), all of which are collectively known as 'Mount Laurel' programs. These developments include Harvest Point I & II (260 units), Salem Senior Village (64 units), Salem Community Complex (6 units), and Salem Historic Homes Phases I & II (104 units). Collectively, these projects contribute over 434 low- and moderate-income rental units, significantly advancing the City's efforts to meet its affordable housing obligations and provide stable housing options for residents. When the 16 units rehabilitated since 2020 are added, more than 614 deed-restricted units serve households earning below 80% of AMI in Salem City.

1. *Salem Historic Homes I & II/Carpenter Street Redevelopment Plan (HMFA)*

The Salem Historic Homes I & II project, implemented under the Carpenter Street Redevelopment Plan, targeted the revitalization of a three-block residential area characterized by widespread vacancy and disinvestment. Many of the existing structures were vacant and under municipal ownership due to tax foreclosure, presenting a strategic opportunity for comprehensive neighborhood reinvestment.

Phase I of the redevelopment plan included the rehabilitation of 49 existing housing units and the new construction of 14 additional units, resulting in a total of 63 high-quality, affordable rental units. Phase II included property acquisition and reconstruction of 41 additional rental properties. The City of Salem partnered with Pennrose Properties, Inc., a private developer with extensive experience in affordable housing, to implement the project. Pennrose was responsible for both the development and ongoing property management of the units to ensure long-term affordability and stability.

2. *Salem Senior Village Apartments (HMFA)*

The Salem Senior Village Apartments consists of 64 affordable age-restricted units for seniors aged 55 and over. Developed under the Low-Income Housing Tax Credit (LIHTC) program, the property reserves at least 40% of units for households earning ≤ 60% of Area Median Income (AMI). The development consists of 64 one-bedroom units across three floors and combines historic renovation (dating pre-1864) with new construction. The development is centrally located in downtown Salem (2 Hires Ave), within one block of municipal offices, county services, library, police, transit stop and community garden.

3. *Nelson House Washington Hall Condominiums (HMFA)*

The Nelson House–Washington Hall Condominiums project is a 30-unit adaptive reuse development located in downtown Salem that advances the City's affordable housing goals by providing affordable homeownership opportunities in a revitalizing mixed-use district. Completed with support from the New Jersey Housing and Mortgage Finance Agency and recognized with a New Jersey Future Smart Growth Award, the project converted two long-vacant historic buildings into energy-efficient, two-bedroom for-sale condominium units priced between approximately $60,000 and $125,000. These units support moderate-income households.

4. City of Salem Housing Rehabilitation Program

Salem City administers an Owner-Occupied Housing Rehabilitation Program funded through the New Jersey Department of Community Affairs' (NJDCA) Small Cities Community Development Block Grant (CDBG) program, aimed at preserving safe, decent, and affordable housing for low- to moderate-income homeowners. A recent $150,000 grant supported the rehabilitation of up to 10 homes through deferred or forgivable loans, allowing qualified residents to make critical repairs without incurring immediate financial burden. Eligible improvements include structural and system repairs, accessibility upgrades, and code compliance measures such as lead or asbestos abatement. In addition, the City operates an Urban Homestead/Land Bank Program, which facilitates the rehabilitation and resale or lease-purchase of City-owned vacant homes by investors who agree to fix them up and either live in them or sell them to new homeowners. Together, these programs help preserve existing housing, improve neighborhoods, and increase the number of safe and affordable homes available to low- and moderate-income households.

5. City of Salem Community Complex (*HOME CHDO*)

The City of Salem Community Complex is a 6-unit permanent housing development that provides affordable and supportive housing for individuals and families with very low incomes. Funded in 1995 through the HOME CHDO (Community Housing Development Organization) Program—administered by the NJDCA's Housing Production office—the complex is designed to help residents achieve housing stability. As with most permanent supportive housing, services such as healthcare, employment assistance, and other resources are typically offered to support long-term residency.

6. Anderson Drive Public Housing

The Anderson Drive Public Housing (80 units) is a garden-style, walk-up complex managed by the Salem Housing Authority, offering a range of unit sizes from accessible efficiencies to four-bedroom homes, with all utilities included. As part of the Authority's 180-unit portfolio—including Broadway Tower and Westside Court—Anderson Drive supports low- and moderate-income families, seniors, and individuals with disabilities, serving households earning well below 50% of AMI. Integrating accessible design features, on-site supportive services, and stable utility-included rents. Given its central role and full subsidy, ongoing monitoring of physical condition and lease-up rates will ensure its continued contribution to meeting affordable housing goals.

7. Broadway Tower Public Housing

Broadway Tower, located at 205 Seventh Street in downtown Salem, is a seven-story, 24-unit public housing high-rise managed by the Salem Housing Authority. It provides spacious one- and two-bedroom apartments with all utilities—heat, air conditioning, water, and trash service—included. The secure building features an elevator, controlled entry, and on-site laundry facilities. As a public housing asset, Broadway Tower serves low- to moderate-income households and is targeted to families, seniors, and individuals with disabilities. The Broadway Tower apartments are deed-restricted, permanently affordable rental units in a central, walkable area. Its downtown location enhances access to transit, services, and local employment,

reinforcing equitable housing distribution and complementing broader mixed-income efforts. Evaluating ongoing occupancy rates and physical condition will be essential for ensuring its long-term functionality and credited contribution to meeting affordable housing goals.

8. Westside Court Public Housing

Westside Court is a 76-unit public housing complex in Salem City that is targeted for full redevelopment through the City's Choice Neighborhoods Transformation Plan. Originally constructed in the 1960s, the complex suffers from severe physical deterioration, with many units uninhabitable due to failing systems, mold, pests, and water intrusion, resulting in a 73% occupancy rate. The site is also physically and socially isolated from the broader community and is partially located within the 100-year floodplain. The City's proposed plan calls for the full replacement of all 76 existing public housing units within new mixed-income developments, either within the Choice Neighborhood area or in alternative locations of opportunity, to avoid relocation hardships and address flood and environmental constraints. The seven-year redevelopment program envisions 135 new rental units—including 76 replacement units for low-income households and 59 additional units affordable to a mix of income levels—and 32 affordable homeownership opportunities for first-time buyers. The plan also recommends integrating parks, childcare facilities, and accessible housing units to support family stability, neighborhood reinvestment, and long-term affordability. If and when the Westside Court Choice Neighborhood Transformation Plan is implemented, an additional 91 affordable housing units will be added to the Salem Public Housing Authority's Westside Court portfolio.

9. Harvest Point I & II /Whispering Waters (USDA)

The Harvest Point Apartments is a USDA–financed rehabilitation of existing multifamily units located at 469 Grieves Parkway: Phase I upgraded 100 units into 120 (with 39 one-bed, 45 two-bed, 36 three-bed). Phase II added approximately 140 units, including LIHTC and USDA Section 515/Rental Assistance subsidies, accepts Section 8 vouchers and targets ≤ 60% AMI, with some units receiving deep rental assistance capped at 30% of income. The development, which was formerly known as Whispering Waters, comprised of 276 units in 18 buildings when it was constructed with USDA funding back in 1978. In 2008, the property was rehabilitated and the unit amount decreased from 276 to 260.

Funding Source	Development Name	Type	Units
HMFA	Salem Historic Homes I & II / Carpenter St. Urban Renewal	Family	104
HMFA	Salem Senior Village Apartments	Age-Restricted	64
HMFA	Nelson House Washington Hall Condominiums	Family	30
Small Cities CDBG	City of Salem Housing Rehabilitation	—	16
HOME-CHDO	Salem Community Complex	Family	6
PHA	Anderson Drive	Family	80
PHA	Broadway Tower	Family	24
PHA	Westside Court	Family	76
USDA	Harvest Point Apartments (Whispering Waters)	Family	260

Table HE 17: Salem City Affordable Housing Inventory, Source: NJ Department of Community Affairs, Codes & Standards, "List of Affordable Developments by County"

Employment Analysis

The City of Salem has an unemployment rate of 12.5%, more than double that of the county and almost four times that of the state.

There is a lower percentage of employed Salem residents working in management, sales, construction, or retail when compared to the county and state likely owing to the absence of these businesses in or around the City. These are traditionally centers for long-term job creation that make up larger shares of civilian employment and have historically been stable careers. The lack of such opportunities nearby is a major factor in the unemployment rate and speaks to the need to attract such industries.

Rather, a much higher percentage of Salem's workforce is working in service and transportation occupations. While these occupations may require specialized training that can be completed on the job, they lack the capacity for long-term career growth and upwards advancement that other industries can provide. Careers in public administration and government are at about county and state averages, but should, in theory, be higher when considering that Salem is the county seat and provides the bulk of the facilities through which much of the City's and Salem County's administrative work is performed. Many of the jobs, therefore, may be attributed to city and county workers who live outside of Salem. As a result of the City's need to attract specially trained employees for certain administrative work, many of these jobs are being performed by outside residents commuting into the City.

The employment analysis has indicated that there is a need to attract job centers locally, as well as train and upskill local residents to perform both jobs that already exist and future job creation. Salem has started to identify these needs, through the City's work with consultants to solve their food desert problem and potentially bring about jobs as a result, as well as working with local non-profit organizations to train and help employ Salem residents in construction trades. Stand Up for Salem, the City's Main Street administration, is actively working with residents to train them in lead abatement – a growing and well-funded initiative at the state-level to remediate remnants of lead-based paint in older buildings. This should yield benefits beyond employment in the City as well, given the age of the housing stock and the likelihood that many Salem homes have lead paint. Nonprofit YouthBuild is also looking to train and certify 10 Salem residents per year in construction and building trades, potentially employing them locally and opening up opportunities for these residents to work for firms nearby or establish their own businesses.

Employment Characteristics

	Salem City	Salem County	New Jersey
EMPLOYMENT STATUS			
Civilian labor force	2,090	33,011	4,957,313
Unemployment Rate	12.5%	4.9%	3.3%
OCCUPATION			

	Salem City	Salem County	New Jersey
Management, business, science, and arts occupations	23.4%	37.4%	47.7%
Service occupations	30.0%	10.0%	14.4%
Sales and office occupations	8.7%	24.2%	19.9%
Natural resources, construction, and maintenance occupations	6.3%	11.0%	6.9%
Production, transportation, and material moving occupations	31.6%	17.3%	11.2%
INDUSTRY			
Civilian employed population 16 years and over	1,828	31,385	4,707,790
Agriculture, forestry, fishing and hunting, and mining	0.8%	2.9%	0.2%
Construction	0.8%	9.8%	6.1%
Manufacturing	12.8%	12.7%	8.3%
Wholesale trade	6.7%	5.1%	2.8%
Retail trade	5.1%	10.1%	10.6%
Transportation and warehousing, and utilities	6.0%	10.9%	6.4%
Information	0.0%	0.4%	2.5%
Finance and insurance, and real estate and rental and leasing	8.6%	4.8%	8.6%
Professional, scientific, and management, and administrative and waste management services	8.0%	8.5%	14.7%
Educational services, and health	29.6%	21.6%	24.1%

	Salem City	Salem County	New Jersey
care and social assistance			
Arts, entertainment, and recreation, and accommodation and food services	11.6%	4.1%	7.0%
Other services, except public administration	5.0%	2.4%	4.0%
Public administration	4.9%	6.5%	4.5%
CLASS OF WORKER			
Civilian employed population 16 years and over	1,828	31,385	4,707,790
Private wage and salary workers	81.5%	80.6%	80.6%
Government workers	14.6%	16.9%	14.5%
Self-employed in own not incorporated business workers	3.9%	2.4%	4.7%
Unpaid family workers	0.0%	0.0%	0.2%

Table HE 18: Employment Characteristics, Source: American Community Survey 5-Year Estimates

Employment Projection

MPO Growth Projections

SJTPO's Regional Transportation Plan, Forward 2050, puts forth projections for population and job growth for all four counties in their focus area. The job growth outlook is roughly 100 jobs by 2050.

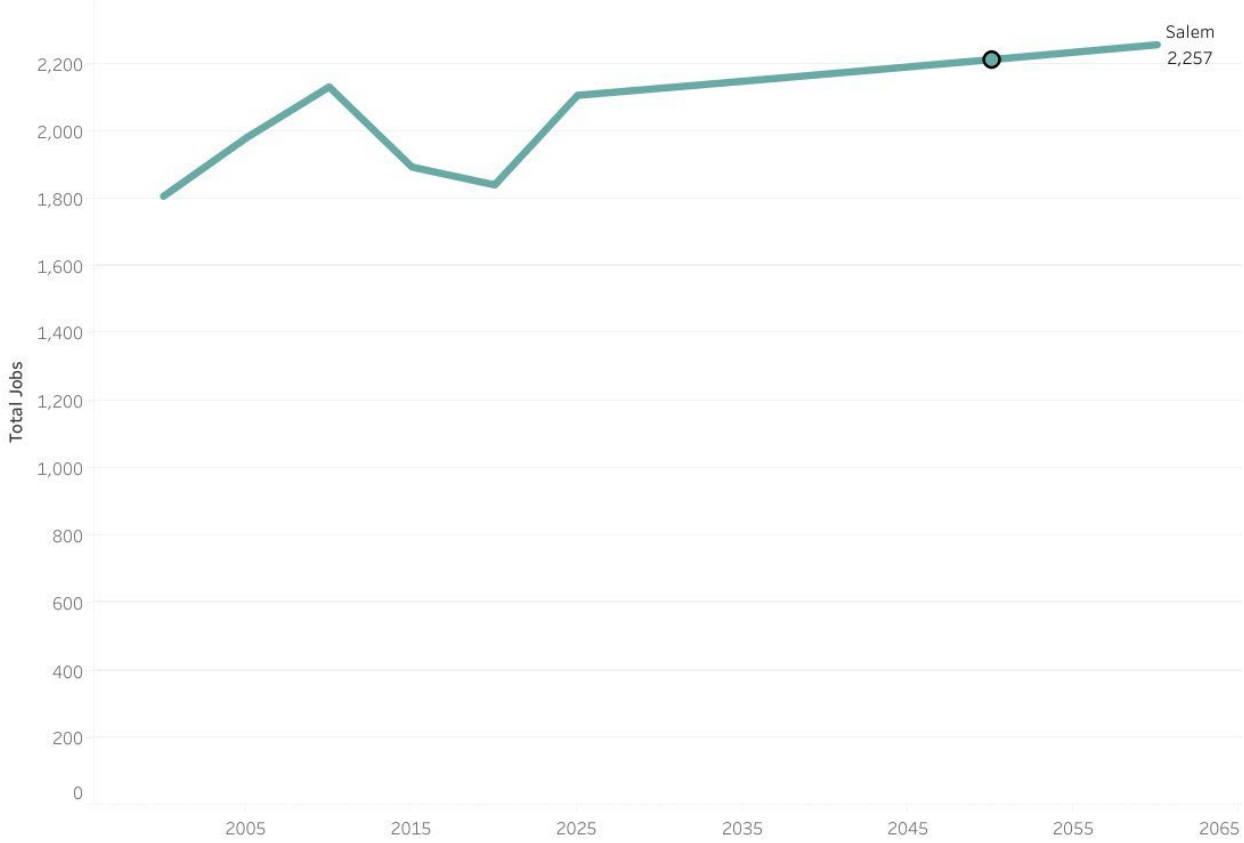

Figure HE 1: Jobs Projection, Salem City, Source: SJTPO

Grocery Solutions

A report by BRS titled *Market Analysis for the City of Salem, New Jersey* was drafted as part of a larger study to determine feasibility and the impact of several food desert solutions for the City. Herein are some potential solutions for food insecurity, complete with socioeconomic analyses and potential siting for projects broken down by the size of the project. The idea of a grocer, a supermarket, and/or a local farmers market are examined. The impacts of the two possible job creating options, the grocer and supermarket, are summarized in this Housing Element as potential employment centers.

Grocery Store Impact

The siting of 25 New Market Street, which has been identified as a potential site for development as a large grocery store pending developer interest, or anywhere else within the City, would potentially yield about 5 new jobs directly related to store operation and several indirectly related jobs in warehousing, real estate, accounting, and building maintenance.

A large grocery store of this size would generate roughly $500,000 in value added to Salem's economy, generating nearly $250,000 in labor income.

Supermarket Impact

A supermarket, owing to a much larger size and output, would provide 36 direct jobs and a few indirectly related jobs in warehousing, real estate, accounting, and building maintenance.

This would bring roughly $3.5 million in total value to Salem, including roughly $2 million in labor income.

Local Job Training Impact

The City of Salem has been working with local non-profit organizations to train and help employ Salem residents in construction trades.

Stand Up for Salem

The City's Main Street district administration is actively working with residents to train them in lead abatement – a growing and well-funded initiative at the state-level to remediate remnants of lead-based paint in older buildings. This should yield benefits beyond employment in the City as well, given the age of the housing stock and likelihood of many Salem homes to have lead paint.

YouthBuild

Nonprofit YouthBuild is also looking to train and certify 10 Salem residents per year in construction and building trades, potentially employing them locally and opening up opportunities for these residents to work for firms nearby or establish their own businesses.

Housing Projection and Fair Share Determination

A municipality's affordable housing obligation is divided into four components: (1) the Rehabilitation (Present Need) share, (2) the Prior Round obligation, (3) the Third Round obligation, and (4) the Fourth Round obligation. For Salem, both the Prior Round and Third Round obligations are currently zero (the Third Round total includes both "gap" and prospective need). For the Fourth Round (2025–2035), the City adopted a binding resolution (Appendix HE1) based on NJDCA calculations dated October 18, 2024. Under these calculations, Salem's Fourth Round present (rehabilitation) need is **10 units** and its prospective (new construction) need is **3 units**.

Present Need (Rehabilitation) Obligation

The *Present Need* or *rehabilitation share* measures the City's existing housing in need of repairs. By law, *present need* is defined as *"the number of substandard existing deficient housing units currently occupied by low- and moderate-income (LMI) households"*. A *deficient housing unit* is one that (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities. These statutory definitions come from the amended New Jersey Fair Housing Act (P.L. 1985, c.222, as amended by P.L. 2024, c.2).

The City's present-need obligation is calculated by DCA using the methodology described in its *Affordable Housing Obligations for 2025–2035 (Fourth Round) – Methodology and Background* report. According to that methodology, Salem's Fourth Round rehabilitation (present need) obligation is 10 units. These are existing housing units occupied by LMI households that meet the statutory *deficient* criteria. Salem's plan must include measures to bring these units into compliance (for example, through housing rehabilitation programs), although those measures are addressed elsewhere in the Housing Plan Element.

Prior Round Obligation (1987–1999)

The Prior Round obligation refers to the cumulative new-construction affordable housing obligation for the first two "rounds" (1987–1999). This obligation is based on fair share formulas established by court decisions (Mount Laurel I, II, and subsequent cases). Importantly, Salem City was designated a "Qualified Urban Aid Municipality" during the Prior Round, which under COAH rules resulted in a zero new-construction obligation for that period. In other words, Salem had no unmet Prior Round obligation to address in its current fair share plan.

Third Round Obligation (1999–2025)

The Third Round obligation covers the period 1999–2025 and consists of two parts: (a) the "Gap" obligation for 1999–2015, and (b) the Prospective need for 2015–2025. New Jersey courts approved use of the *Jacobson methodology* to calculate these Third Round numbers. Under that methodology, Salem's Third Round *Gap* and *prospective* needs were both calculated to zero, yielding a total Third Round obligation of **0 units**. (Thus Salem has no unmet Third Round obligation to carry forward.)

Fourth Round Obligation (2025–2035)

The Fourth Round obligation is set for the coming ten-year period (July 1, 2025 to June 30, 2035) under the amended Fair Housing Act (P.L. 2024, c.2). By law, *prospective need* is defined as *"a projection*

of housing needs based on development and growth which is reasonably likely to occur in a region or municipality, as the case may be, as a result of actual determination of public and private entities". The DCA uses demographic data and growth projections to calculate each municipality's obligations, but cities adopt their own binding numbers via council resolution.

For Salem, the DCA's Fourth Round calculation (October 18, 2024) yields:

- *Present Need (Rehabilitation)*: 10 units (as described above)
- *Prospective Need (New Construction)*: 3 units (expected future growth)

These numbers were adopted by Salem's governing body in a binding resolution (see Appendix HE1) and are presumed valid under P.L. 2024, c.2. The table below summarizes Salem's affordable housing obligations by component for the Fourth Round and cumulatively:

Obligation Component	Units
Fourth Round Present Need / Rehabilitation Share	10
Prior Round New-Construction Obligation	0
Third Round "Gap" / Prospective Obligation	0
Fourth Round Prospective (New Construction) Obligation	3
Total Fourth Round Fair Share Obligation	**13**

Table HE 1199: Salem City Total Fourth Round Fair Share Obligation, Source: NJDCA

Each of these obligations must be addressed in Salem's Housing Element and Fair Share Plan. The City is legally required to provide realistic opportunities to satisfy the total of 13 units through rehabilitation, new construction, or other affordable housing mechanisms.

Land Suitable for Affordable Housing

The City of Salem possesses a range of land assets and designated redevelopment areas that offer significant potential for the development of affordable housing. A citywide "Area in Need of Rehabilitation" designation provides the framework to target scattered, underutilized, or vacant sites—particularly in key corridors such as East Broadway and Carpenter Street—for redevelopment. Over 30 city-owned properties, including parcels on East Broadway, Carpenter Street, and Church Street, are currently held in a municipal Land Bank managed by the City's Housing Office and are available for negotiated sale or long-term lease to qualified developers. These sites are well-positioned for adaptive reuse or infill development consistent with local zoning that permits multifamily and mixed-income housing. Nonprofit and private-sector partners—such as Habitat for Humanity of Salem County, Stand Up for Salem, and Pennrose—have already demonstrated the feasibility of this approach through successful efforts like the Carpenter Street Historic Homes, which blended preservation with new construction. In addition, Salem's Neighborhood Revitalization Tax Credit (NRTC) neighborhood supports targeted reinvestment, strengthening efforts to activate vacant lots and rehabilitate housing stock in aging residential areas. Collectively, this portfolio of redevelopment-designated sites, Land Bank inventory, and nonprofit- owned parcels equips the City with practical, flexible options for meeting its Fourth-Round affordable housing obligation through both new construction and adaptive reuse.

Affordable Housing Recommendations

Present Need (Rehabilitation Share)

N.J.A.C. 5:93-5.2(b) identifies the purpose of the rehabilitation program as the renovation of *deficient housing units* occupied by low- and moderate-income households. Deficient units are those with health and safety code violations requiring repair or replacement of a major system. These major systems include:

- Weatherization (insulation or energy efficiency improvements)
- Roof
- Plumbing (including wells)
- Heating
- Electricity
- Sanitary plumbing (including septic systems)
- A load-bearing structural system

The City's rehabilitation program is designed to address these deficiencies and ensure safe, habitable conditions for eligible households.

HUD Small Cities Grant Program Participation

Salem City has participated for several decades in the U.S. Department of Housing and Urban Development (HUD) Small Cities Grant program, which provides federal funds for rehabilitation of owner-occupied homes owned by income-qualified households. Federal funding for this program is passed through HUD, and Salem City intends to continue the program into the Fourth Round of its affordable housing plan, provided that HUD funding remains available. Salem City also participates in the New Jersey Department of Community Affairs' (NJDCA) Neighborhood Preservation Program (NPP) and Affordable Housing Trust Fund (former Balanced Housing Program), both of which support community revitalization and the development of affordable housing. The NPP focuses on strengthening older residential and commercial neighborhoods through targeted investment and local engagement, while the Affordable Housing Trust Fund provides financial assistance to create and rehabilitate affordable housing units across the state.

Salem's Small Cities program provides rehabilitation assistance through a combination of forgivable and deferred loans:

- *Forgivable/Deferred Loans*: If a homeowner remains in the rehabilitated property for at least six years, 50% of the loan amount is forgiven (converted to a grant) and does not have to be repaid. The remaining 50% is a no-interest loan that becomes due when the property is sold.

This loan structure ensures long-term occupancy by income-qualified households while still providing necessary funds for major repairs.

Prior Round Rehabilitation Credits

On April 4, 1988, the Council on Affordable Housing (COAH) granted Salem City substantive certification based on credits from prior affordable housing activity. A second-round certification was issued on August 1, 2001, for the City's 56-unit rehabilitation obligation. This obligation was fully addressed through the gut rehabilitation of 49 units, the new construction of 14 units under Salem

Historic Homes Phase I, and the reconstruction of 41 units under Phase II, as part of the Carpenter Street Redevelopment Plan. In total, 104 units were produced through the Phase I and II projects, resulting in a surplus of 48 units that may be applied toward future affordable housing obligations.

Fourth Round Rehabilitation Credits

Under the affordable housing regulations, Salem City may earn rehabilitation credits in the Fourth Round for eligible units that have been brought up to code standards. To qualify for credits, each rehabilitated unit must address one or more of the major systems listed above, with an average expenditure of at least $10,000 in hard costs per unit. Additionally, the rehabilitation work must have been completed on or after April 1, 2020 (the start of the Fourth Round).

City of Salem Housing Rehabilitation Program

As previously noted, Salem City administers an Owner-Occupied Housing Rehabilitation Program funded through the Small Cities CDBG program. To date, Salem City has rehabilitated 16 eligible housing units occupied by low- and moderate-income households. These funds were used to repair or replace major systems such as roof structures, windows, electrical systems, plumbing, and HVAC equipment. This average expenditure meets the COAH requirement (N.J.A.C. 5:93-5.2) of at least $10,000 per unit.

Salem Senior Village Apartments Rehabilitation

The Salem Senior Village Apartments is a 64-unit affordable, age-restricted rental community serving seniors aged 55 and older. The City has endorsed an application to NJHMFA seeking additional financing to support the rehabilitation of all 64 units. Of these, 54 units will be used to address the City's Fourth Round and future obligations. The remaining 10 units will address the City's Fourth Round rehabilitation share.

Rehabilitation Program Requirements and Administration

State affordable housing rules require rehabilitation programs to serve both owner-occupied and renter-occupied dwellings. To that end, Salem City will continue its rehabilitation program for renter-occupied units, providing assistance to qualifying landlords who rehabilitate rental housing for low- and moderate-income tenants. The City will ensure that its rehabilitation program complies with the criteria set forth in N.J.A.C. 5:93-3.4, which include:

- *Rehabbed to Code*: All rehabilitated units must meet applicable building codes at the time of completion. This includes the New Jersey Uniform Construction Code (N.J.A.C. 5:28), the Rehabilitation Subcode (N.J.A.C. 5:23-6), and the BOCA Property Maintenance Code in effect at the time of evaluation.
- *Occupied by Eligible Households*: Units must be occupied by income-eligible households at the time of rehabilitation. Eligibility must be certified by the City's administrative agent before any rehabilitation contract is executed.
- *Affordability Controls*: For renter-occupied units, the rehabilitation assistance must be secured with affordability controls lasting at least 10 years, ensuring continued availability to low- and moderate-income tenants.
- *Administration*: Salem City administers its own rehabilitation program and also participates in the County's rehabilitation program. The process for advertising and processing

applications from income-eligible households will continue in the Fourth Round as it has in prior rounds, with no anticipated changes.

- *Rehabilitation Manual*: Salem City must maintain a rehabilitation program manual (model template attached as Appendix HE 2) that details program policies and procedures. The manual must include the length of affordability controls, income qualification criteria, financing terms and funding availability, eligible repair activities, program outreach and marketing strategies, staff responsibilities, and application intake procedures.
- *AHMS Monitoring*: All rehabilitation credits earned through the City's and County's programs will be recorded in the State's Affordable Housing Management System (AHMS) monitoring database as required for compliance and reporting.

These measures ensure that Salem City's rehabilitation program remains in full compliance with state regulations while effectively addressing the City's present affordable housing needs.

Cumulative Fourth Round Prospective Share (New Construction)

Salem City will meet its 3-unit cumulative fourth round prospective need with the following affordable housing development projects.

Harvest Point I & II /Whispering Waters

The Harvest Point Apartments is a USDA–financed redevelopment of existing multifamily units located at 469 Grieves Parkway: Phase I upgraded 100 units into 120 (with 39 one-bed, 45 two-bed, 36 three-bed). Phase II added approximately 140 units, including LIHTC and USDA Section 515/Rental Assistance subsidies, accepts Section 8 vouchers and targets ≤ 60% AMI, with some units receiving deep rental assistance capped at 30% of income. The development, which was formerly known as Whispering Waters, comprised of 276 units in 18 buildings when it was constructed with USDA funding back in 1978. In 2008, the property was redeveloped and the unit amount decreased from 276 to 260. The City of Salem is addressing its Fourth Round and future obligations with units from the Harvest Point I & II project.

Salem Senior Village Apartments

The Salem Senior Village Apartments is a 64-unit affordable, age-restricted rental community serving seniors aged 55 and older. The City has endorsed an application to NJHMFA seeking additional financing to support the rehabilitation of all 64 units. Of these, 10 units will be used to address the City's Fourth Round rehabilitation share. The remaining 54 units will address the City's Fourth Round and future obligations.

Salem Historic Homes I & II/Carpenter Street Redevelopment Plan

The Salem Historic Homes I & II project, implemented under the Carpenter Street Redevelopment Plan, targeted the revitalization of a three-block residential area characterized by widespread vacancy and disinvestment. Many of the existing structures were vacant and under municipal ownership due to tax foreclosure, presenting a strategic opportunity for comprehensive neighborhood reinvestment.

Phase I of the redevelopment plan included the rehabilitation of 49 existing housing units and the new construction of 14 additional units, resulting in a total of 63 high-quality, affordable rental units.

Phase II included property acquisition and reconstruction of 41 additional rental properties. The City of Salem addressed its prior round rehabilitation obligation with 56 units from the Salem Historic Homes I & II project. The remaining 48 units is being used to address the Fourth Round and future obligations.

Salem Community Complex

The City of Salem Community Complex is a permanent housing development that provides affordable and supportive housing for individuals and families with very low incomes. Funded in 1995 through the HOME CHDO (Community Housing Development Organization) Program— administered by the NJDCA's Housing Production office—the complex is designed to help residents achieve housing stability. As with most permanent supportive housing, services such as healthcare, employment assistance, and other resources are typically offered to support long-term residency.

The Nelson House–Washington Hall Condominiums

The Nelson House–Washington Hall Condominiums project is a 30-unit adaptive reuse development located in downtown Salem that advances the City's affordable housing goals by providing affordable homeownership opportunities in a revitalizing mixed-use district. Completed with support from the New Jersey Housing and Mortgage Finance Agency and recognized with a New Jersey Future Smart Growth Award, the project converted two long-vacant historic buildings into energy-efficient, two-bedroom for-sale condominium units priced between approximately $60,000 and $125,000. These units support moderate-income households and contribute to Salem's Fourth Round affordable housing obligation by offering an ownership option in a walkable, service-rich location. The project aligns with the City's master plan objectives by promoting reinvestment in the downtown core and reducing reliance on rental housing.

Figure HE 2: Nelson House-Washington Hall Condos. Photo Credit. tricountyrem.com

Linden Street Infill Homes

Linden Street Infill Homes is a 6-unit scattered-site single-family development strategically located within existing residential blocks in the City of Salem (Block 70, Lots 30, 33, 35, 36.01-36.02, & Block 71, Lots 6 and 28). The sites are all located withing the R-2 Residential District, which permits single family detached dwellings on 7,200-square foot lots. Funded through the New Jersey Affordable Housing Trust Fund, the project will create six deed-restricted 3-bedroom homes designed for households earning up to 80% of AMI. The City has entered into a redevelopment agreement with the Cumberland County Improvement Authority for construction and administration of all six units.

Figure HE 3: Rendering of Linden Street Infill Homes.

By dispersing these units across multiple sites on Linden Street, the initiative promotes equitable integration and avoids concentrations of affordability. These homes directly contribute to the City's Fourth-Round prospective fair-share obligations by adding six new, permanently affordable homeownership units and support broader City goals to revitalize neighborhoods, stabilize property values, and diversify housing options. The City of Salem is addressing its Fourth Round and future obligations with 6 units from the Linden Street Infill Homes project.

Summary of the City of Salem's Fourth Round Affordable Housing Plan

The City of Salem's Fourth Round Housing Plan presents a comprehensive approach to meeting its affordable housing obligations through a combination of rehabilitation and new construction initiatives, as required under the Fair Housing Act and the Mount Laurel doctrine.

Rehabilitation Efforts continue to play a vital role in preserving the City's existing housing stock. A total of 26 units have been rehabilitated through two initiatives: the City of Salem Housing Rehabilitation Program (16 owner-occupied units) and the Salem Senior Village Apartments (10 age-restricted rental units).

In addition, 56 rental units previously rehabilitated under the Salem Historic Homes I & II / Carpenter Street Urban Renewal project have been certified toward the City's prior round obligation and remain a core part of the City's long-term affordable housing inventory.

The Fourth Round also includes a significant commitment to new construction, with 404 affordable housing units either completed or planned. These consist of:

- *Harvest Point Apartments (Whispering Waters)* – 260 family rental units (existing),
- *Salem Senior Village Apartments – 54 senior rental units (existing)*
- *Salem Historic Homes I & II (Fourth Round phase)* – 48 family rental units (existing),
- *Nelson House–Washington Hall Condominiums – 30 family owner-occupied units (existing)*
- *Salem Community Complex* – 6 rental units (existing), and
- *Linden Street Infill Homes* – 6 planned owner-occupied units on scattered infill sites.

Taken together, the City of Salem's Fourth Round plan provides for a total of 486 affordable units, of which 478 are built and occupied, with 6 additional units in the planning stage (see Table HE 20). The housing initiatives are geographically distributed, tenure-diverse (rental and ownership), and designed to serve a range of populations, including families, seniors, and low- and moderate-income households.

Housing Program	Tenure	Occupancy Type	Status	Total Units
Rehabilitation Projects				
City of Salem Housing Rehabilitation Program	Own	Mixed	Existing	16
Salem Senior Village Apartments	Rent	Senior	Existing	10
			Total	**26**
Certified Prior Round Rehabilitation Projects				
Salem Historic Homes I & II / Carpenter St. Urban Renewal	Rent	Family	Existing	56
			Total	**56**
Third Round Projects	—	—	—	—
Fourth Round New Construction Projects				
Harvest Point Apartments (Whispering Waters)	Rent	Family	Existing	260
Salem Senior Village Apartments	Rent	Senior	Existing	54
Salem Historic Homes I & II	Rent	Family	Existing	48
Nelson House–Washington Hall Condominiums	Own	Family	Existing	30
Salem Community Complex	Rent	Family	Existing	6
Linden Street Infill Homes	Own	Family	Planned	6
			Total	**404**

Table HE 20: Summary of the City of Salem's Fourth Round Affordable Housing Plan.

Housing Implementation Recommendations

- Adopt and implement the Housing Element & Fair Share Plan in order to meet and exceed affordable housing obligations.
- Continue to promote the rehabilitation and construction of an array of homes that allow for residents to age in place.
- Update the Housing Rehabilitation Program Manual (Appendix HE 2).
- Adopt an Affordable Housing Ordinance to ensure the proper administration, compliance, and long-term oversight of affordable housing units and projects, consistent with the New Jersey Fair Housing Act and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) (Appendix HE 4).
- Adopt a Non-residential Development Fee Ordinance (N.J.S.A. 40:55D-8.1 et seq.) (Appendix HE 4).
- Establish a citywide affordable Housing Trust fund account (Appendix HE 4).
- Submit annual project unit monitoring for all built and rehabbed dwellings to NJDCA via AHMS.
- Continue the City program to rehabilitate vacant housing and identify new opportunities for development through the City's Land Banking initiative.
- Continue use of HUD/USDA/NJDCA/HMFA funds to improve housing conditions, boost employment rate and household incomes.

Appendix HE 1- Resolution

CITY OF SALEM
RESOLUTION 2025-57

RESOLUTION ADOPTING THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS AFFORDABLE HOUSING OBLIGATIONS FOR 2025-2035 (FOURTH ROUND) FOR THE CITY OF SALEM

WHEREAS, the New Jersey Legislature amended the State's Fair Housing Act ("Amended FHA" or "Law") pursuant to P.L. 2024, C.2 which was signed into law by the Governor on March 20, 2024; and

WHEREAS, among other amendments, the Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to perform a calculation of regional need and municipal present and prospective obligations for affordable housing in accordance with the formulas established in the Law; and

WHEREAS, pursuant to the requirements of the Amended FHA, DCA has issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background ("DCA Report"); and

WHEREAS, in the DCA Report, DCA has calculated the City's present need of affordable housing obligations for Round 4 in the year 2025 to be 10 units; and

WHEREAS, the City's total prospective affordable housing obligation for Round 4 according to the DCA calculations for the years 2025 to 2035 is 3 units; and

WHEREAS, the Amended FHA specifically, N.J.S.A. 42:27D-304. l(f)(l), in relevant part provides as follows:

> (a) With consideration of the calculations contained in the relevant reports published by the department pursuant to this section **[DCA Report]** for each IO-year round of affordable housing obligations beginning with the fourth round, a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L.2024, c.2 (C.52:27D-304.3) by resolution, which shall describe the basis for the municipality's determination and bind the municipality to adopt a housing element and fair share plan pursuant to paragraph (2) of this subsection based on this determination as may be adjusted by the program as set fo1ih in this subsection.
>
> (b) For the Fourth round of affordable housing obligations, this determination of present and prospective fair share obligation shall be made by binding resolution no later than January 31, 2025. After adoption of this binding resolution, the municipality shall file an action regarding the resolution with the program no later than 48 hours following adoption. The resolution, along with the date of filing with the program, shall be published on the program's publicly accessible Internet website. The municipality shall also publish the resolution of its publicly accessible Internet website, if the

municipality maintains one [bracketed **term** added for clarification]; and

WHEREAS, the City officials and its professional consultants have reviewed the calculations and methodology contained in the DCA Report and have determined to accept the obligations stated therein subject to specific reservation of rights including, without limitation, the following:

a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof.

b) As described in the Recitals, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the applicable provisions of the Amended FHA.

c) All rights to take any contrary position in the event of a third pa1ty challenge to the obligations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Salem, County of Salem, State of New Jersey as follows:

1. The above Recitals are repeated and incorporated by reference as if set forth at length herein.

2. The City hereby accepts the calculations contained in the DCA Report and, specifically, DCA's determination of the City's present need obligation of 10 units and prospective need obligation of 3 units for the Fourth Round period 2025 2035, subject to a reservation of rights including, without limitation,

   a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;

   b) As described in the Recitals, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the applicable provisions of the Amended FHA.

   c) All rights to take any contrary position in the event of a third party challenge to the obligations.

3. The City Attorney is directed to file a Complaint for Declaratory Judgment and to file a copy of this Resolution with the Affordable Housing Alternative Dispute Resolution Program as required by the Amended FHA.

4. The City Clerk is directed to publish a copy of this Resolution on the City's website and to take any and all action necessa1y to proceed with the preparation of the City's Housing Element and Fair Share Plan for filing by June 30, 2025.

5. This Resolution shall take effect immediately, according to law.

ATTEST:

Ben Angeli, RMC

CITY OF SALEM

Tim Gregory, Council President

COUNCIL	MOVED	SECONDED	y	N	ABSTAIN	ABSENT
S. Cline			y			
E. Gage	)(		)I			
V. Groce						.,k
S. Kellum		X:	k'			
C. Loatman			X			
J. Long			y			
C.Smilh						k'
T. Gregory						-,

I, Ben Angeli, Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council of the City of Salem on January 13, 2025.

1-13-25

Date

Ben Angeli, RMC

Appendix HE 2- Model Operating Manual for the Administration of a Rehabilitation Program

Model Operating Manual

For the Administration of

REHABILITATION UNITS

Department of Community Affairs

SAMPLE

Model Operating Manual
Housing Rehabilitation Program

[This sample manual and the checklist of minimum topics provide the minimum criteria required for an Operating Manual for a housing rehabilitation program. Municipalities may tailor this sample manual to meet any local requirements and include all established policies, but shall not reduce the scope of this sample manual without permission from the Council on Affordable Housing (COAH). Municipalities must select an Administrative Agent experienced in the administration of a rehabilitation program. Only experienced municipal agencies or employees are acceptable if a municipality chooses in-house administration.][1]

[1] **COAH, June 2008**

REHABILITATION PROGRAM OPERATING MANUAL CHECKLIST
Minimum Standards

At a minimum the Rehabilitation Program Operating Manual must clearly describe the procedures and policies for the following:

	Eligible Participants
☐	Categories of Participants –Owners/Renters
☐	Income Limits – The carrying costs of the unit should meet COAH criteria.
☐	Certification of Substandard – List Major Systems
	Available Benefits
☐	Program Financing – Owners/Renters
☐	Program Affordability Controls
☐	Program Affordability Controls – Owner-occupied - Lien
☐	Program Affordability Controls – Renter-occupied – Deed and may include a lien
	Eligible Property Improvements
☐	Eligible property improvements - Sample related work
☐	Ineligible property improvements
☐	Rehabilitation Standard
☐	Certification of Standards required
	Overview of Administrative Procedures
☐	Preliminary Application/Interview – Owners/Renters
☐	Income Eligibility and Program Certification – Documents to be submitted Owners/Renters – period of eligibility
☐	Housing Inspection/Substandard Certification
☐	Ineligible Properties – The total debt must be less than the appraised price.
☐	Work Write-up and Cost Estimate
☐	Contractor Bidding Negotiations – Min 3 Bids/Max # Bids
☐	Contractor Signing/Pre-Construction Conference – indicate # days to begin work and complete work
☐	Progress Inspections
☐	Change Orders
☐	Payment Schedule
☐	Appeal Process – Property Improvements
☐	Final Inspection
☐	Recorded Mortgage, Mortgage Note, Restricted Covenant
	Income Eligibility Certification
☐	Verification documentation required
☐	Eligible Income/Ineligible Income
☐	Appeal Process – Income Eligibility
	Contractor Related Procedures
☐	Standards for contractor selection – 3 recent job references, licenses, evidence of financial stability to secure performance bond, workmen's compensation BI $100,000/$300,000 PD $50,000 minimum
☐	# of proposals required – minimum of 3 - # of days in which to submit bid – bids must fall within max of 10% of cost estimate – award to lowest bidder
☐	Contractor Requirements – work schedule and agreement
☐	List of Pre-qualified Contractors

	Maintenance of Records
☐	List documents to be filed
☐	Rehabilitation Log
☐	Monitoring Information required
	Program Marketing
☐	Notice of Public Hearing
☐	Program Flyer
☐	Program Brochure
	Rental Units
☐	Include overview of local rental process
☐	**Affirmative Marketing**
☐	Approved Affirmative Marketing Plan included
☐	How will re-rentals be marketed?
☐	Will there be a regional preference?
☐	Who will implement marketing re-rentals?
☐	Prepare sample marketing materials, including a sample display ad and PSA
☐	**Random Selection & Applicant Pool**
☐	What level of verification will be completed before the lottery process – pre-application or full applications?
☐	Will the pool of applicants be randomized each time a unit is available?
☐	Will there be categories of applicant pools?
	Matching Households to Available Units
☐	How will households be matched to available units? Will there be categories of applicant pools?
☐	**Household Certification**
☐	Standards for reviewing applicant household eligibility and certifying applicant households
☐	Verification documentation required
☐	Eligible Income/Ineligible Income
☐	Maximum Monthly Payment
☐	Housing Counseling
☐	Basis for Dismissing Applications
☐	Appeals – Income Eligibility
☐	**Determining Affordable Rents**
☐	Determining Initial Rents
☐	Determining Rent Increases
☐	**Application Fees**
☐	**Violations, Defaults and Remedies**
☐	**Maintenance of Records for Rental Program**
☐	List documents to be filed
☐	Monitoring information required
☐	**Appendices**
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INTRODUCTION

This Rehabilitation Program Operating Manual has been prepared to assist in the administration of the *[insert name of municipality]* Rehabilitation Program. It will serve as a guide to the program staff and applicants.

This manual describes the basic content and operation of the program, examines program purposes and provides the guidelines for implementing the program. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures.

This manual explains the steps in the rehabilitation process. It describes the eligibility requirements for participation in the program, program criteria, funding terms and conditions, cost estimating, contract payments, record keeping and overall program administration.

The following represents the procedures developed to offer an applicant the opportunity to apply to the program.

A. Fair Housing and Equal Housing Opportunities

It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or http://www.state.nj.us/lps/dcr/index.html.

SECTION I. ELIGIBLE PARTICIPANTS

A. Categories of Participants

Both owner-occupied and renter-occupied housing units are eligible to receive funding for rehabilitation provided that the occupants of the units are determined to be low- or moderate-income households and that the units are determined to be substandard. Owners of rental properties do not have to be low- or moderate-income households. If a structure contains two or more units and an owner, who is not income eligible, occupies one unit funding may be provided for the rehabilitation of the rest of the units if income-eligible households occupy those units. Rents must be affordable to low- or moderate-income households.

NOTE: Pursuant to N.J.A.C. 5:97-6.2(b)6 rental units may not be excluded from a municipal rehabilitation program. If a county administers the municipal rehabilitation program and the county program does not include rehabilitation of rental units, the municipality will need to supplement the county program with its own rehabilitation program for rental units.

B. Income Limits for Participation

The occupants of the units must have incomes that fall within the income guidelines established for *[insert the name of the County]* County by the Council on Affordable Housing (COAH). These limits are revised annually as COAH figures become available and can be found in Appendix A.

For owner-occupied units, the carrying costs of the unit (taxes, mortgage, insurance *[, including the rehabilitation repayment mortgage]*) should meet COAH criteria (less than 33% of gross income for families, less than 40% of gross income for seniors).

NOTE: The program should strive to provide that low-income households occupy at least 50 percent of the units rehabilitated.

If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits.

C. Program Area

This is a municipal-wide program. The rehabilitation property must be located in *[insert name of municipality]*.

NOTE: A municipality may decide to target certain neighborhoods for the program and would then list those neighborhoods here.

D. Certification of Substandard

The purpose of the program is to bring substandard housing up to code. Substandard units are those units requiring repair or replacement of at least one major system. A major system is any one of the following:

1. Roof
2. Plumbing (including wells)
3. Heating
4. Electrical
5. Sanitary plumbing (including septic systems)
6. Load bearing structural systems
7. Lead paint abatement
8. Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

Code violations will be determined by an inspection conducted by a licensed inspector**.**

SECTION II. AVAILABLE BENEFITS

A. Program Financing

Up to [*insert maximum funding available]* per unit may be available for improvements to eligible owner-occupied and renter-occupied units.

B. Owner-occupied Units

[Insert program financing here]

C. Renter-occupied Units

[Insert program financing here]

NOTE: Municipal rehabilitation investment shall average at least $10,000 per unit in hard costs. Administrative costs may be covered in conformance with N.J.A.C 5:97-8.9.

Financing of rehabilitation programs shall be structured to encourage rehabilitation and continued occupancy. Low interest rates and forgivable loans are encouraged. Leveraging of private financing is also encouraged if the result is low interest loans that encourage rehabilitation. If an owner-occupied housing unit is sold prior to the end of the controls on affordability, at least part of the loan shall be recaptured and used to rehabilitate another housing unit, unless the unit is sold to a low- or moderate-income household at an affordable price pursuant to N.J.A.C. 5:97:-9.3

See attached sample Program Financing options.

D. Program Affordability Controls

Ten-year controls on affordability on both owner-occupied units and rental units are required.

E. Owner-occupied Affordability Controls

On owner-occupied units, the controls on affordability may be in the form of a lien.

F. Renter-occupied Affordability Controls

For rental units, the controls on affordability shall be in the form of a deed restriction and may also include a lien. If a unit is vacant upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate- income household at an affordable price and affirmatively marketed pursuant to the N.J.A.C. 5:97-9. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

G. Subordination [*Optional*]

The municipality may agree to subordination of a loan if the mortgage company supplies an appraisal showing that the new loan plus the balance on the old loan does not exceed 95% of the appraised value of the unit. Additionally, for an owner occupied unit, the household must be re-certified as low- or moderate-income.

SECTION III. ELIGIBLE PROPERTY IMPROVEMENTS

A. Eligible Improvements

Housing rehabilitation funds may be used only for repairs or system replacements necessary to bring a substandard unit into compliance with municipal health, safety and building codes, applicable code violations, as well as any other cosmetic work that is reasonable and deemed necessary or is related to the necessary repairs.

At least one major system must be replaced or included in the repairs, which include one of the following:

- Roof
- Plumbing (including wells)
- Heating
- Electrical
- Sanitary plumbing (including septic systems)
- Load bearing structural systems
- Lead paint abatement
- Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

The related work may include, but not be limited to the following:

- Interior trim work,
- Interior and/or exterior doors
- Interior and/or exterior hardware
- Window treatment
- Interior stair repair
- Exterior step repair or replacement
- Porch repair
- Wall surface repair
- Painting
- Exterior rain carrying system repair

B. Ineligible Improvements

Work not eligible for program funding includes but is not limited to luxury improvements (improvements which are strictly cosmetic), additions, conversions (basement, garage, porch, attic, etc.), repairs to structures separate from the living units (detached garage, shed, barn, etc.), furnishings, pools and landscaping. If determined unsafe, stoves may be replaced. The replacement or repair of other appliances is prohibited. Rehabilitation work performed by property owners shall not be funded under this program.

C. Rehabilitation Standards

Upon rehabilitation, housing deficiencies shall be corrected and the unit shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28. For construction projects that require the issuance of a construction permit pursuant to the Uniform Construction Code, the unit must also comply with the requirements of the Rehabilitation Subcode (N.J.A.C. 5:23-6). In these instances, the more restrictive requirements of the New Jersey State Housing Code or the Rehabilitation Subcode shall apply. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

D. Certification of Standard

All code deficiencies noted in the inspection report must be corrected and rehabilitated units must be in compliance with the standards proscribed in sub-section C above upon issuance of a certificate of completion or occupancy. The licensed inspector must certify any structure repaired in whole or in part with rehabilitation funds to be free of any code violations.

A municipality may provide for repairs in emergency situations if the conditions are stipulated in the Operating Manual.

E. Emergency Repairs

A situation relating to a safety and/or health hazard for the occupants would constitute an emergency. A municipal inspector will confirm the need for such work. In emergency cases, the formal solicitation process will not be followed. A minimum of three (3) estimates will be obtained when possible for the "emergency" work. However, eligibility, as stated in Section I, subsection B, must be determined prior to soliciting estimates. Application for additional non- emergency work may be made in accordance with the procedures outlined in this Operating Manual. The funding for the emergency work and any additional rehabilitation may not exceed the program financing provisions in Section II, sub-section A.

SECTION IV. OVERVIEW OF ADMINISTRATIVE PROCEDURES

A. Application/Interview

Property owners interested in participating in the housing rehabilitation program may submit preliminary applications to the program staff. Preliminary applications are available at the following locations:

[insert name and address of selected locations]

Upon request, the program staff will mail a preliminary application to an interested property owner.

If after the program staff reviews a preliminary application an owner-occupant appears to be income eligible, an interview will be arranged with the applicant for a formal application to the program. At the time of the interview, the applicant must present required documentation. Applicants for rental rehabilitation funding must provide a list of tenants and the rents paid by each. The program staff will contact the tenants to provide evidence of income eligibility of the occupants of the units.

Applications will be processed in the order of receipt.

A municipality may alternatively provide for a random selection process where there is sufficient interest in the program and the process must be documented in this Operating Manual. See Random Selection process in Rental Section.

A municipality may also provide to deviate from the rank order for emergency situations, if these standards are incorporated into the Operating Manual.

> Only emergency situations shall be handled out of the order of receipt *[or randomly selected list]*.

B. Income Eligibility and Program Certification

For the households seeking a determination of income eligibility, both owner-occupants and renter-occupants, all wage earners 18 years of age or older in the household must submit appropriate documentation to document the household income, as further described below.

Property owners of both owner-occupied and renter-occupied units must submit the following documentation:

- Copy of the deed to the property.
- Proof that property taxes and water and sewer bills are current.
- Proof of property insurance, including liability, fire and flood insurance where necessary.

If after review of the income documentation submitted an applicant is determined to be ineligible, the applicant will receive a letter delineating the reasons for the determination of ineligibility. An applicant may be determined ineligible if the applicant's or each tenants'

income exceeds COAH income limits or, for owner occupied units, if the carrying costs of the unit (taxes, mortgage, insurance*[, including the rehabilitation repayment mortgage]*) exceed COAH's criteria (less than 33% of gross income for families, less than 40% of gross income for seniors).

The program staff will arrange for a title search of all properties entering the program.

After the initial interview and the program staff has substantiated that the occupant is income-eligible, and the title search is favorable, the Eligible Certification Form will be completed and signed.

Upon confirmation of income eligibility of the applicant or the applicant's tenants, the program staff will send a letter, including the Eligible Certification Form, to the applicant certifying the applicant's and or tenant's eligibility. Eligibility will remain valid for six months. If the applicant has not signed a contract for rehabilitation within six months of the date of the letter of certifying eligibility, the applicant will be required to reapply for certification.

C. Housing Inspection/Substandard Certification

Once determined eligible, the program staff will arrange for a qualified, licensed, housing/building code inspector to inspect the entire residential property.

The licensed inspector will inspect the house, take photographs, and certify that at least one major system is substandard. All required repairs would be identified.

D. Ineligible Properties

If after review of the property documentation submitted and the inspection report and/or work write-up an applicant's property is determined to be ineligible, the program staff will send a letter delineating the reasons for the determination of ineligibility. An applicant's property may be determined ineligible for any one of the following reasons:

- Title search is unfavorable.
- Property does not need sufficient repairs to meet eligibility requirements.
- Real estate taxes are in arrears.
- Proof of property insurance not submitted.
- Property is listed for sale.
- Property is in foreclosure.
- Total debt on the property will exceed the value of the property.

[*Optional Clause*]

The municipality may disqualify properties requiring excessive repairs to meet municipal housing standards. The estimated or bid cost of repairs must exceed *[insert amount, at least 50]* percent of the estimated after-rehabilitation value of the property for the municipality to exclude the property

If after review of the property documentation submitted and the inspection report and/or work write-up an applicant's property is determined to be eligible, the inspector will then certify that the dwelling is substandard by completing and signing the Certificate of Substandard Form and submitting this to the program staff.

E. Cost Estimate

The program staff will prepare or cause to be prepared a Work Write-up and Cost Estimate. This estimate will include a breakdown of each major work item by category as well as by location in the house. It will contain information as to the scope and specifics on the materials to be used. A Cost Estimate will be computed and included within the program documentation. The program staff will review the Preliminary Work Write-up with the property owner.

Only required repairs to units occupied by income eligible households will be funded through the housing rehabilitation program. If the property owner desires work not fundable through the program, including work on an owner-occupied unit of a rental rehabilitation project, work on a non-eligible rental unit in a multi-unit building or improvements not covered by the program, such work may be added to the work write-up if the property owner provides funds to be deposited in the municipality's Housing Trust Fund prior to the commencement of the rehabilitation of the property equivalent to (*110 percent or a higher percentage*) of the estimated cost of the elective work. Such deposited funds not expended at the time of the issuance of a certificate of completion/occupancy will be returned to the property owner with accrued interest.

F. Contractor Bidding Negotiations

After the unit and the unit occupant have been certified as eligible, the program staff will provide a list of approved, pre-qualified trade contractors for bidding. The property owner reviews this list and selects a minimum of three and a maximum of five contractors from whom to obtain bids. The program staff and property owner will then review these bids. The lowest responsible trade contractor shall then be selected. If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

[Optional] The program may permit a property owner to seek proposals from non-program participating contractors. However, the municipality must pre-approve the contractor prior to submitting a bid.

G. Contract Signing/Pre-Construction Conference

Program staff will meet with the property owner to review all bids by the various trades. This review will include a Final Work Write-up and Cost Estimate. The Contractor Agreement will be prepared by the program staff, as well as the Property Rehabilitation Agreement covering all the required terms and conditions.

The program staff will then call a Pre-Construction Conference. Documents to be executed at the Pre-construction Conference include: Contractors Agreement(s), Right of Entry Document, a Restricted Covenant, Mortgage and Mortgage Note. The property owner, program staff representative, contractor and bank representative will execute the appropriate documents and copies will be provided as appropriate. A staff member will outline project procedures to which

property owner must adhere. A Proceed to Work Order, guaranteeing that the work will commence within fifteen (15) calendar days of the date of the conference and be totally completed within ninety (90) days from the start of work, will be issued to each contractor at this Conference.

H. Progress Inspections

The program staff will make periodic inspections to monitor the progress of property improvements. This is necessary to ensure that the ongoing improvements are in accordance with the scope of work outlined in the work write-up. It is the contractor's responsibility to notify the Building Inspector before closing up walls on plumbing and electrical improvements.

I. Change Orders

If it becomes apparent during the course of construction that additional repairs are necessary or the described repair needs to be amended, the program staff will have the qualified professional(s) inspect the areas in need of repair and prepare a change order describing the work to be done. The applicant and the contractor will review the change order with the program staff and agree on a price. Once all parties approve of the change order and agree on the price, they will sign documents amending the contract agreement to include the change order. Additionally, if the applicant is not funding the additional cost, new financing documents will be executed reflecting the increase.

J. Payment Schedule

The contract will permit three progress payments if the project costs less than $20,000 or four progress payments if the project costs more than $20,000. For example: $24,000 project has four payments, with the first payment of $10,000 and the remaining payments are divided equally. First payment is made when the project is one-quarter completed. Second payment is made when the project is one-half completed. Third at three quarters completed. Fourth and final payment upon completion.

The contractor will submit a payment request. The applicant will sign a payment approval if both the applicant and housing/building inspector *[insert the municipal governing body if the municipality elects to also require their approval]* are satisfied with the work performed. The municipality will then release the payment.

Final payment will be released once all final inspections are made, a Certificate of Occupancy is issued (if applicable) and the program staff receives a Property Owner Sign-off letter.

The contractor's performance bond will be released within *[insert minimum of three]* months after the final payment is made to the contractor.

K. Appeal Process

If an applicant does not approve a payment that the housing/building inspector has approved, the disputed payment will be appealed to the municipality's *[insert municipal entity]* for a hearing. The municipality's *[insert municipal entity]* will decide if the payment shall be released to the contractor or the contractor must complete additional work or correct work completed before the

release of the payment. The municipality's *[insert municipal entity]* decision will be binding on both the applicant and the contractor

L. Final Inspection

Upon notification by the contractor that all work is complete and where required a Certificate of Occupancy has been issued, a final inspection shall be conducted and photographs taken. The program staff (or a representative), the property owner, and the necessary contractors shall be present at the final inspection to respond to any final punch list items.

M. Record Restricted Covenant and Mortgage Documentation

Program staff will file the executed Restricted Covenant and Mortgage with the County Clerk.

N. File Closing

After the final payment is made, the applicant's file will be closed by the program staff [*Insert if applicable: and submitted to the municipality upon termination of the program].*

SECTION V. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION

A. Complete a Household Eligibility Determination Form

If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits. For the income qualifying process, use the regulations of the funding source and modify this Operating Manual accordingly.

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq. (except for the asset test).[2] Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.

- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.

[2] Asset Test – N.J.A.C. 5:80-26.16(b)3 which provides that if an applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied by the administrative agent, unless the applicant's existing monthly housing costs …exceed 38 percent of the household's eligible monthly income.

- A letter or appropriate reporting form verifying monthly benefits such as
    - Social Security or SSI – Current award letter or computer print out letter
    - Unemployment – verification of Unemployment Benefits
    - Welfare -TANF[3] current award letter
    - Disability - Worker's compensation letter or
    - Pension income (monthly or annually) – a pension letter
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).
- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property attach copies of all leases.

> **NOTE:** Administrative Agents typically use a spreadsheet or worksheet similar to the one included in the Appendix to help calculate an applicant's income. This summarizing document will also prove useful in the event there is an appeal or question by the applicant concerning the calculation or during COAH monitoring visits. The Operating Manual should include a reasonable period [30 days is recommended] to complete the submission of all required documentation and this policy should be included in the manual.

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household's income are listed under Income. Those that are not considered as part of the household's income are listed under Not Income.

Income

1. Wages, salaries, tips, commissions

[3] TANF – Temporary Assistance for Needy Families

2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

Not Income

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits
5. Income of live-in attendants
6. Scholarships
7. Student loans
8. Personal property such as automobiles
9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
10. Part-time income of dependents enrolled as full-time students
11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

Student Income

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

Income from Real Estate

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

B. **Records Documenting Household Composition and Circumstances**

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

C. Certify the income eligibility of low- and moderate-income households by completing the application form. Provide the household with the original and keep a copy in the project files.

D. **Appeals**

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

SECTION VI. CONTRACTOR RELATED PROCEDURES

A. Contractor Selection

Contractors must apply to the program staff to be placed on the pre-approved contractors list. Contractors seeking inclusion on the list must submit references from at least three recent general contracting jobs. Contractors also must submit documentation proving financial stability and the ability to obtain performance bonds, as performance bonds will be required on every rehabilitation project. If it is ever necessary for the municipality or *[insert name of administrative agent]* to access the performance bond in order to complete a project, the contractor will be removed from the pre-approved contractors list. Contractors must carry workmen's compensation coverage and liability insurance of at least $100,000/$300,000 for bodily injury or death and $50,000 for property damage. Only licensed tradesmen will be permitted to perform specialty work such as plumbing, heating and electrical.

B. Number of Proposals Required

The property owner will select a minimum of three general contractors from a list of pre- approved contractors. Property owners may not select contractors who do not appear on the list.[4] The approved work write-up will be submitted to the selected contractors by the program staff. Contractors must visit the property and submit bids within *[insert number of days, minimum 14]* days. The contract will be awarded to the lowest bidder[5], provided that the housing/building inspector or the professional who drafted the work write-up certify that the work can be completed at the price bid and that the bid is reasonably close to the cost estimate. Bids must fall within *[insert percent, maximum of 10]* percent of the cost estimate.

C. Contractor Requirements

Upon notification of selection, the contractor shall submit all required insurance certification to the program staff. A contract signing conference will be called by the program staff to be attended by the property owner and contractor. At the time of Agreement execution, the contractor shall sign a Certification of Work Schedule prepared by the program staff.

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[4] The program may permit a property owner to seek proposals from non-program participating contractors. However, the municipality must pre-approve the contractor prior to submitting a bid.

[5] If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

SECTION VII. MAINTENANCE OF RECORDS

A. Files To Be Maintained on Every Applicant

The program staff will maintain files on every applicant. All files will contain a preliminary application. If an applicant's preliminary application is approved, and the applicant files a formal application, the file will contain at a minimum:

- Application Form
- Tenant Information Form (Rental Units Only)
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility

B. Files of applicants approved for the program will also contain the following additional documentation:

- Housing Inspection Report
- Photographs - Before
- Certification of Property Eligibility or Determination of Ineligibility
- Proof of Homeowners Insurance
- Copy of Deed to Property

C. For properties determined eligible for the program where the applicants choose to continue in the program, the files shall contain the following:

- Work Write-Up/Cost Estimate
- Copies of Bids
- Applicant/Contractor Contract Agreement
- Recorded Mortgage/Lien Documents
- Copies of All Required Permits
- Contractor Requests for Progress Payments
- Progress Payment Inspection Reports
- Progress Payment Vouchers
- Change Orders (If needed)
- Final Inspection Report
- Photographs - After
- Certification of Completion
- Certification of Release of Contractor's Bond

Individual files will be maintained throughout the process [i*nsert if applicable: and submitted to the municipality upon termination of the program*].

D. Rehabilitation Log

A rehabilitation log will be maintained by the program staff that depicts the status of all applications in progress.

E. Monitoring

For each unit the following information must be retained to be reported annually:

- Street Address
- Block/Lot/Unit Number
- Owner/Renter
- Income: Very Low/Low/Mod
- Final Inspection Date
- Funds expended on Hard Costs
- Development Fees expended
- Funds Recaptured
- Major Systems Repaired
- Unit Below Code & Raised to Code
- Effective date of affordability controls
- Length of Affordability Controls (yrs)
- Date Affordability Controls removed
- Reason for removal of Affordability Controls

SECTION VIII. PROGRAM MARKETING

The municipality will conduct a public meeting announcing the implementation of the housing rehabilitation program. For the term of the program, the municipality will include flyers once a year with the *[insert all selected: tax bills, water bills or other regular municipal mailing to all property owners*]. Program information will be available at the municipal building, library, and senior center and on the municipal website. Posters regarding the program will be placed in retail businesses throughout the municipality.

Prior to commencement of the program and periodically thereafter, the municipality will hold informational meetings on the program to all interested contractors. Each contractor will have the opportunity to apply for inclusion of the municipal contractor list.

RENTAL PROCEDURES
SECTION IX

SECTION IX. RENTAL PROCEDURES

Rental units are subject to the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5-80:26.1 et. seq. once the rental units are rehabilitated.

A. Fair Housing and Equal Housing Opportunities

It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or http://www.state.nj.us/lps/dcr/index.html.

B. Overview of the Affordable Housing Administration Process for Rental Units

NOTE: This is a sample process only. This section of the Operating Manual should be modified to reflect the local administrative process.

- The Municipal Housing Liaison serves as an initial point of contact for unsolicited calls to the municipality about affordable housing and where appropriate directs applicants to an Administrative Agent, who may be a nonprofit agency, State agency or consultant that may administer the rehabilitation program within the municipality.

- The Administrative Agent implements the municipality's Affirmative Marketing Plan.

- The Administrative Agent serves as the initial point of contact for all inquiries generated by the affirmative marketing efforts and sends out pre-applications to interested callers.

- The Administrative Agent will accept these returned pre-applications for a specific period of time, for example, 30 to 90 days. At the end of this time period these applications will be randomly selected, through a lottery, to create a pool of applicants.

- The Administrative Agent pre-qualifies applicants in the applicant pool for income eligibility and sends either a rejection letter to those over income or a preliminary approval letter to those who appear income-eligible.

- When a unit becomes available, the Administrative Agent will interview the applicant households and proceed with the income qualification process.

- The Administrative Agent must notify applicant households in writing of certification or denial within 20 days of the determination.

- Once certified, households are further screened to match household size to bedroom size.

- Certified households that are approved for a rental affordable housing unit will sign Appendix K and any other applicable documents, which are held in the applicant file. Applicants then make an appointment with the leasing agent. Applicant households seeking rental units proceed with a credit check, which is generally conducted by the developer, affordable housing sponsor or landlord. If approved, the applicant will sign the lease, pay the first month's rent and the security deposit and receive the keys.

- The certified household moves in to the affordable rental unit.

C. Roles and Responsibilities

Responsibilities of the Municipal Housing Liaison

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see the section **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, Responsibilities of an Administrative Agent.

Monitor the status of all restricted units in the municipality's Fair Share Plan. Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households. The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

Compile, verify and submit annual reporting. Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison.

Provide Administrative Services, unless those services are contracted out. The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent**.

Responsibilities of an Administrative Agent

The primary responsibility of an Administrative Agent is to establish and enforce affordability controls and ensure that units in their portfolio are rented to eligible households. Administrative Agents must:

Secure written acknowledgement from all owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Create and adhere to an Operating Manual. Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform.

Implement the municipality's Affirmative Marketing Plan. The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent, and the developer, affordable housing sponsor or owner this responsibility should be discussed. Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.

Accept applications from interested households. In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

Conduct random selection of applicants for rental of restricted units. The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual.

Create and maintain a pool of applicant households. This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.

Determine eligibility of households. The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An Administrative Agent is required to ensure that all certified applicants execute a certificate acknowledging the rights and requirements of renting an affordable unit, in the form of Appendix K of UHAC.

Establish and maintain effective communication with property managers and landlords. Property managers and landlords of restricted units should be instructed and regularly reminded

that the Administrative Agent is their primary point of contact. The Administrative Agent must immediately inform all property managers and landlords of any changes to the Administrative Agent's contact information or business hours.

Property managers and landlords should be instructed to immediately contact the Administrative Agent:

- Immediately upon learning that an affordable rental unit will be vacated.

- For review and approval of annual rental increases.

Provide annual notification of maximum rents. Each year when COAH releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.

Serve as the custodian of all legal documents. An Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Repayment Mortgages, Repayment Mortgage Notes, Leases and Appendix K.

Serve as point of contact on all matters relating to affordability controls. It is recommended that the Administrative Agent develop a system to be notified by lenders when a unit is at risk of foreclosure. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.

Provide annual activity reports to Municipal Housing Liaison for use in the annual COAH monitoring report. An Administrative Agent is responsible for collecting the reporting data on each unit in their portfolio.

Maintain and distribute information on HUD-approved Housing Counseling Programs.

Responsibilities of the Municipal Attorney

The Municipal Attorney assists the municipality with developing, administrating, and enforcing affordability controls, including but not limited to

- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls.

Responsibilities of Owners of Rental Units

Open and direct communication between the Owners of rental units, the Municipal Housing Liaison and the Administrative Agent is essential to ongoing administration of affordability

controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental units are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual COAH reporting.

Responsibilities of Landlords and Property Managers

Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

D. Affirmative Marketing

Overview of the Requirements of an Affirmative Marketing Plan

All affordable units are required to be affirmatively marketed using [i*nsert name of municipality*]'s Affirmative Marketing Plan. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children to housing units which are being marketed by an Administrative Agent or a developer, sponsor, owner or property manager of affordable housing. The primary objectives of an Affirmative Marketing Plan are to target households who are least likely to apply for affordable housing, and to target households throughout the entire housing region in which the units are located.

[I*nsert name of municipality*]'s Affirmative Marketing Plan can be found in the Appendix.

NOTE: Every Affirmative Marketing Plan and any revisions thereto must be adopted by resolution of the governing body, referenced by ordinance and approved by COAH. A form to help municipalities set up an Affirmative Marketing Plan is available on COAH's website for Administrative Agents. It recommended to include the approved Affirmative Marketing Plan in the Appendix rather than in the text of the Operating Manual so that if any revision is required to the Affirmative Marketing Plan, the manual will not need to be revised, only the insertion in the Appendix.

Every Affirmative Marketing Plan must include all of the following:

- Publication of at least one advertisement in a newspaper of general circulation within the housing region; and

- Broadcast of at least one advertisement by radio or television throughout the housing region.

- At least one additional regional marketing strategy such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with major employer(s), or notification through community and regional organizations such as non-profit, religious and civic organizations.

NOTE: Although not a requirement of UHAC, COAH encourages municipalities to list all affordable housing units in their community on the New Jersey Housing Resource Center at www.njhousing.gov. The New Jersey Housing Resource Center is a free service to both owners and administrators of affordable housing and households seeking affordable housing opportunities.

For each affordable housing opportunity within the municipality, the Affirmative Marketing Plan must include the following information:

- The address of the project and development name, if any
- The number of rental units
- The price ranges of the rental units
- The name and contact information of the Municipal Housing Liaison, Administrative Agent, property manager or landlord
- A description of the Random Selection method that will be used to select applicants for affordable housing.
- Disclosure of required application fees, if any.

Advertisements must contain the following information for each affordable housing opportunity:

- The location of and directions to the units
- A range of prices for the housing units
- The bedroom size(s) of the units
- The maximum income permitted to qualify for the housing units
- The locations of applications for the housing units
- The business hours when interested households may obtain an application for a housing unit
- Application fees, if any

NOTE: It is also recommended that the following information be included in the advertisements:

- Last date applications will be accepted
- Contact number of the Municipal Housing Liaison, Administrative Agent, property

manager or landlord

- A statement concerning the availability of credit, budget and/or homeownership counseling services

- If already adopted by ordinance, a statement concerning regional preference.

COAH recommends including the following statement on all advertisements. "Visit www.njhousing.gov for more affordable housing opportunities."

OPTIONAL: Regional Preference

[Insert name of municipality] has by ordinance provided that households that live or work in COAH Housing Region [i*nsert region number*] comprised of the following counties [i*nsert counties*] shall be selected for an affordable housing unit before households from outside this region. Units that remain unoccupied after households who live or work in the region are exhausted, may be offered to the households outside the region.

NOTE: Municipalities that wish to give preference to applicant households that live or work in their housing region must state this preference in the form of an ordinance. This preference cannot be limited to families that live or work in the host municipality – if preference is given, it must be given to all households that live or work in the housing region.

Implementation of the Affirmative Marketing Plan

NOTE: The Operating Manual must identify who will market the affordable units, the municipality or the Administrative Agent, and how frequently they will be marketed, depending on such factors as whether there will be advertising to create and maintain a central list of applicants or advertising shall be conducted for each project, or some combination thereof.

It is strongly recommended that detailed records on all marketing initiatives be maintained.

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the *[insert municipality or Administrative Agen*t] shall undertake all of the strategies outlined in the *[insert name of municipalit*y]'s Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

An applicant pool will be maintained by the *[insert municipality or Administrative Agent*] for re-rentals.

NOTE: Alternatively, the manual may say: *An applicant pool will be maintained by each project for re-rentals.*

When a re-rental affordable unit becomes available*, [insert municipality or Administrative Agent*] applicants will be selected from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above.

The selection of applicants from the applicant pool is described in more detail in this manual under the section **Random Selection & Applicant Pool(s)**.

FREQUENTLY ASKED QUESTIONS

Question: *How often should we advertise?*

Answer: Administrative Agents responsible for new developments, or newly hired Administrative Agents, must advertise initially to create an applicant pool. For new developments, advertising should begin four months prior to the anticipated occupancy of the units. Advertising should continue monthly until all units are sold or rented. Once all vacant units are filled with eligible households, the Administrative Agent can either close the applicant pool or keep it open. If the applicant pool has sufficient eligible households for approximately two years worth of turnover, COAH recommends that the applicant pool be closed and applications no longer be accepted. In this case, advertising does not need to be conducted until four months before the applicant pool is to be reopened. If the Administrative Agent wishes to keep the applicant pool open, they must conduct some form of advertising on a monthly basis. However, all the components of the Affirmative Marketing Plan do not need to be implemented every month. One strategy can be implemented each month on a rotating basis. The next section provides more information on random selection and applicant pool maintenance to help determine how often advertising should be conducted.

Question: *My county doesn't have a library. How do I comply with the application availability rule?*

Answer: Only 11 of New Jersey's 21 counties have a county library (a list is included on COAH's website for Administrative Agents). If one or more of the counties in a housing region do not have county libraries, applications must be made available at the county administration building.

Question: *Our affordable housing development is very small. It is unnecessary for us to conduct monthly marketing initiatives and the number of applicants in our existing pool already exceeds the two-year rule of thumb. Is there any way for us to maintain compliance without conducting monthly outreach initiatives?*

Answer: COAH suggests that you attempt to partner with other municipalities in your housing region to help defray time and cost or close the applicant pool and do not accept applications until the applicant pool contains fewer applicants and affirmative marketing is implemented.

Question: *We have moderate-income units available, but not low-income units. Can we keep only the moderate portion of the applicant pool open?*

Answer: Yes. In fact, if you regularly have a type of unit that is hard to fill, you may tailor marketing initiatives to fill that type of unit. However, households that submit applications and are not interested or eligible for the targeted unit type must be notified that they will not be placed in the applicant pool until it is reopened for their unit type.

Question: *Are all developments required to conduct affirmative marketing, or just those with a certain number of units, for example, more than five units?*

Answer: All affordable units governed by UHAC are required to be affirmatively marketed. If it is burdensome for a small development to conduct its own affirmative marketing, the municipality and Administrative Agent(s) should consider conducting the affirmative marketing for all the units within the municipality at the municipal level, not at the development level. An alternative is to contract with an Administrative Agent who will do the affirmative marketing for your units as well as other units they manage.

E. Random Selection & Applicant Pool(s)

NOTE: The Operating Manual must describe the randomization process to be used. Below are two sample processes, Initial Randomization and Randomization After Certification.

Initial Randomization

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

After advertising is implemented, applications are accepted for [*insert number of days*] days.

NOTE: To help analyze the impact and success of various marketing initiatives, it is recommended that the Administrative Agent ask the applicants where they learned of the housing opportunity.

At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).

NOTE: The Administrative Agent may also pre-qualify applicants as soon as applications are received, and only place preliminarily income-eligible applications in the lottery, provided that applicants are notified in writing of eligibility and non- eligibility in advance of the lottery.

Households are informed of the date, time and location of the lottery and invited to attend.

NOTE: A municipal representative should also be invited to attend the lottery.

An applicant pool is created by listing applicants in the order selected.

Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.

Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit).

If there are sufficient names remaining in the pool to fill future re-rental, the applicant pool shall be closed.

NOTE: Two years of turnover is a recommended standard.

When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

NOTE: Alternatively, for future re-rentals only, the Administrative Agent can keep the applicant pool open after the initial lottery and add names to the existing list based on time and date of submission. This procedure may only be followed if the Administrative Agent engages in ongoing monthly affirmative marketing efforts according to the approved Affirmative Marketing Plan to ensure outreach to the housing region.

Randomization after Certification

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

After advertising is implemented, applications are accepted for [*insert number of days*] days.

All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)

Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as *[regional preference or]* the need for an accessible unit)

When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

Households are informed of the date, time, and location of the lottery and invited to attend.

After the lottery is conducted, the first household selected is given *[insert number of days*] days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)

Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

F. Matching Households To Available Units

NOTE: This topic in the Operating Manual is frequently challenged. Think carefully about the policies entered and be sure the policies are consistent with the Federal Fair Housing Act.

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

- Provide an occupant for each unit bedroom;
- Provide children of different sex with separate bedrooms;
- Prevent more than two persons from occupying a single bedroom;
- Require that all the bedrooms be used as bedrooms; and
- Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor.

A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

FREQUENTLY ASKED QUESTIONS

Question: *What happens if a moderate-income household "walks in" (when the applicant pool is closed and no affirmative marketing is being conducted) and I have a moderate unit available with no eligible moderate-income households in the applicant pool?*

Answer: If the Administrative Agent notices that a specific unit type is hard to fill and few eligible households are in the applicant pool, the Administrative Agent should conduct ongoing affirmative marketing for that unit type to ensure a steady stream of certified households and keep the list open for that unit type. The walk-in can be added
to the list.

Question: *I am working with an applicant household that requires an accessible unit. Do they skip ahead on the list when an accessible unit becomes available?*

Answer: UHAC does not provide any guidance on this situation. However, COAH suggests that the Administrative Agent consider an accessible unit a unit type, just as a unit is defined by bedroom size. Therefore, if the Administrative Agent is using the initial randomization model, the first household on the randomized list that requires an accessible unit should be selected when an accessible unit becomes available. If the Administrative Agent is using the randomization after certification model, all households of the appropriate size who are in need of an accessible unit, would be selected, and randomized.

Question: *An applicant household has a daughter that has room and board at her college. Can they request a unit that is large enough for her to have a bedroom when she is at home?*

Answer: Yes. If the household has a student away at college who is still claimed as a dependent and maintains the parents' address as a legal address, the student should be counted in the household size.

Question: *Do I have to place a one-person household in a two-bedroom unit if there is no one-bedroom units available or the applicant requests a two-bedroom unit?*

Answer: A household should not be placed in a unit where there is more than one bedroom per household member. In order to deviate from these standards, the Administrative Agent must obtain written approval from COAH. If a development does not have any one-bedroom units, for example, the Administrative Agent should inform one-person households that they will not be offered a unit unless there are no eligible households with more than one person. The Administrative Agent should also refer one-bedroom households to other Administrative Agents within the municipality or region that offer one-bedroom units. The Administrative Agent must demonstrate that every effort has been made to find a household of the appropriate size and composition and that a hardship exists that would justify deviating from the established standard.

Question: *I am working with an applicant household that consists of two parents and five children. This household is applying for a three-bedroom unit. Should this household only be offered a four-bedroom unit?*

Answer: No. The administrator must *strive* to prevent more than two people from occupying one bedroom, as outlined in N.J.A.C. 5:80-26.4(c), but may not force a family to purchase or rent a larger unit as long as it does not violate municipal regulations for over-crowding.

G. Application Fees

The Administrative Agent's fee schedule can be found in the Appendix.

H. Maximum Monthly Payments

The percentage of funds that a household can contribute toward housing expenses is limited. However, an applicant may qualify for an exception based on the household's current housing cost (see below). The Administrative Agent will strive to place an applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

UHAC states that a certified household is not permitted to lease a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities. However, at the discretion of the Administrative Agent, this limit may be exceeded if:

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

- The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

- The household is currently in substandard or overcrowded living conditions;

- The household documents the existence of assets, with which the household proposes to supplement the rent payments; or

- 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; and

- The household receives budget counseling.

I. Housing Counseling

The Administrative Agent is responsible for providing housing counseling, or providing referrals for counseling, as a part of the Affirmative Marketing Plan and during the application process. Although housing counseling is recommended, a household is only required to attend counseling if their monthly housing expense exceeds UHAC standards. A HUD-approved housing counseling agency, or a counseling agency approved by the NJ Department of Banking and Insurance, meets UHAC's requirements for an experienced Housing Counseling Agency. If the Administrative Agent is not approved by HUD or by the NJ Department of Banking and Insurance, the Agent will make referrals to one of the HUD-approved housing counseling agencies in New Jersey. This counseling to low- and moderate-income housing applicants will focus on subjects such as budgeting, credit issues, and mortgage qualification, and is free of

charge. A list of non-profit counselors approved by HUD and/or the New Jersey Department of Banking and Insurance is included on COAH's website and is available from the Administrative Agent.

J. The Applicant Interview

Ideally, the prospective applicant will be available to meet with the Administrative Agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that also pose an obstacle to an interview. Therefore, the Administrative Agent is prepared to complete the certification process via telephone and mail. If an interview is to be conducted, the Administrative Agent will attempt to achieve the following objectives:

- Confirm and update all information provided on the application.

- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.

- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income.

- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years). Require the applicant to give a written certification as to whether any household member did or did not dispose of any assets for less than fair market value during the past two years.

K. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION

1. Complete a Household Eligibility Determination Form

If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits. For the income qualifying process, use the regulations of the funding source and modify this Operating Manual accordingly.

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq.. Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.

- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.

- A letter or appropriate reporting form verifying monthly benefits such as

    - Social Security or SSI – Current award letter or computer print out letter

    - Unemployment – verification of Unemployment Benefits

    - Welfare -TANF[6] current award letter

    - Disability - Worker's compensation letter or

    - Pension income (monthly or annually) – a pension letter

- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.

- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).

- Evidence or reports of income from directly held assets, such as real estate or businesses.

- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.

- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property attach copies of all leases.

NOTE: Administrative Agents typically use a spreadsheet or worksheet similar to the one included in the Appendix to help calculate an applicant's income. This summarizing document will also prove useful in the event there is an appeal or question by the applicant concerning the calculation or during COAH monitoring visits. The Operating Manual should include a reasonable period [30 days is recommended] to complete the submission of all required documentation and this policy should be included in the manual.

[6] TANF – Temporary Assistance for Needy Families

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household's income are listed under Income. Those that are not considered as part of the household's income are listed under Not Income.

Income

1. Wages, salaries, tips, commissions
2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

Not Income

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits
5. Income of live-in attendants
6. Scholarships

7. Student loans

8. Personal property such as automobiles

9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements

10. Part-time income of dependents enrolled as full-time students

11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

Student Income

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

Real Estate Asset Limit

Except for federal programs, if an applicant's primary residence, which is to be sold upon purchase of an affordable unit, has no mortgage debt and is valued at or above the regional asset limit as published annually by COAH with COAH's Annual Regional Income Limits Chart, the household must be determined ineligible for certification.

However, if the applicant's existing monthly housing costs including taxes, homeowner insurance, and condominium or homeowner association fees exceed 38 percent of the household's eligible monthly income, the household will be exempt from the asset limit.

An applicant must provide a recent, Market Value Appraisal or Realtor Comparative Market Analysis, on the home they own unless the applicant has mortgage debt on the home or can demonstrate that the existing monthly housing costs exceed 38 percent of the household's eligible monthly income, in which case the applicant is exempt from the asset limit.

Before obtaining a professional appraisal, the applicant should review the property's tax appraisal and the current market value and compare it to the asset limit to avoid any unnecessary expense. For instance, if homes are commonly selling in the applicant's neighborhood for over $250,000, it is unlikely that an appraisal will determine a value below the asset limit. The maximum asset limit for Region 1 in 2006, for example, is $139,396.

Income from Real Estate

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

2. **Records Documenting Household Composition and Circumstances**

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

3. Certify the income eligibility of low- and moderate-income households by completing the application form. Provide the household with the original and keep a copy in the project files.

L. Approving or Rejecting a Household

Administrative Agents must notify applicant households of their eligibility within twenty (20) days of the Administrative Agent's determination.

Households with a verified total household income that exceeds 80 percent of the regional income limit for the appropriate family size are ineligible for purchase or rental of restricted units. A letter rejecting the household's application shall be mailed to the household.

Similarly, households with a verified total household income that is within the income limits, but too low to afford any of the units administered by the Administrative Agent shall be sent a letter rejecting the household's application, and/or referring them to housing counseling *[insert if applicable: or the local Affordability Assistance Program].*

Households with a verified total household income of less than 80 percent shall be issued a letter certifying eligibility. This certification is valid for 180 days. If the Administrative Agent is unable to place the household in a restricted unit at the conclusion of 180 days, an extension may be granted once the household's eligibility is verified.

Once the applicant is certified and matched to an available unit, the Administrative Agent must secure from the applicant a signed and notarized acknowledgement of their requirements and

responsibilities in renting a restricted unit. UHAC's Appendix K shall be forwarded to the applicants.

In addition to non-eligibility based on income, the Administrative Agent may deny a certification because of the household's failure or inability to document household composition, income, assets, sufficient funds for down payment, or any other required facts and information. A household may also be denied certification if the Administrative Agent determines that there was a willful or material misstatement of fact made by the applicant.

M. Dismissal of Applications

Applications can be dismissed for the following reasons:

1. The application is not signed or submitted on time.

2. The applicant commits fraud, or the application is not truthful or complete.

3. The applicant cannot or does not provide documentation to verify their income or other required information when due.

4. The household income does not meet the minimum or maximum income requirements for a particular property.

5. The applicant owns assets that exceed the Asset Limit.

6. The applicant fails to respond to any inquiry in a timely manner.

7. The applicant is non-cooperative or abusive with the staff, property manager or landlord.

8. The applicant changes address or other contact information without informing the Administrative Agent in writing.

9. The applicant does not meet the credit standard or other requirement set forth by managers of rental properties.

10. The applicant fails to verify attendance in a credit counseling program when required to do so by the program rules.

11. The applicant does not respond to periodic update inquiry in a timely fashion.

12. The applicant fails to sign the Compliance Certification, Certificate for Applicant, Lease Document, as may be required.

13. The applicant, once approved, fails to sign the lease in a timely manner.

14. Applicants will also be removed from all lists held by the Administrative Agent once they have been approved for an affordable unit. However, these applicants may re-apply for other opportunities in that municipality once they have occupied their unit.

Applicants who are dismissed must re-apply. A minimum time period of six months applies in most situations where the applicant has been withdrawn for fraud, poor credit, uncooperative behavior or other serious matters.

Applicants are not automatically removed from rental lists if they do not respond to a Notice of Availability.

Applications may be held in abeyance for a period not to exceed 60 days if there is an error on the credit report, so that the applicant can correct the error and re-apply. Units will not be held open for that applicant. However, once the credit report is corrected, the applicant will be given a priority for the next opportunity at that property.

N. Appeals

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

FREQUENTLY ASKED QUESTIONS:

Question: *Is it a requirement of UHAC that Administrative Agents meet with applicants in person?*

Answer: Because an applicant interview could prove to be burdensome to many households it is not a pre-requisite to purchase or occupancy, although it is encouraged. Administrative Agents should be prepared to conduct the household certification via mail.

Question: *With households filing taxes through e-filing, we are having trouble getting copies of tax returns. How can we get copies of e-filed tax returns?*

Answer: According to the IRS website, transcripts of previously filed tax returns can be ordered by completing a Form 4506-T or calling (800) 829-1040 and following the prompts in the recorded message. There is no charge for the transcript and you should receive it in 10 business days from the time they receive your request. Tax return transcripts are generally available for the current and past three years.

Question: *How can child support payments that are made in cash be documented?*

Answer: If the applicant is depositing the cash child support payments into a bank account, a series of statements from that account should be used to establish a trend of payments. If not, a notarized statement from the former spouse should be obtained to document the income.

Question: *Is it a requirement that the Administrative Agent always obtain a written statement from the household's employer(s) confirming their income and job status?*

Answer: No. However, when evaluating overtime and other income trends, such as bonuses, working directly with the employer is typically much more efficient and reliable than simply evaluating pay stubs.

Question: *Are there any potential issues with renting to a separated family that has a divorce pending?*

Answer: Yes, until a divorce is finalized, a spouse can make claim on a residence rented by the other spouse. Until a divorce is finalized, it is suggested that Administrative Agents place these types of cases on hold.

Question: *How can income eligibility be established for someone that may have been out of work for two years, but had a job during the most recent tax year?*

Answer: As long as the applicant is currently employed, a series of consecutive pay stubs (at least 3 months) should be used to establish the income of an applicant in this or similar situations.

Question: *Can an applicant for a rental unit be rejected solely because they have Section 8 rental assistance?*

Answer: No. A household receiving Section 8 assistance cannot be rejected based on this status. Discrimination such as this is illegal.

Question: *Can an applicant be required to attend and graduate from a Housing Counseling Program in order to rent a restricted unit?*

Answer: No. A household is only required to attend housing counseling if their monthly housing expense exceeds UHAC standards. Administrative Agents, however, are required to provide housing counseling or refer applicants to an approved Housing Counseling Program.

Question: *Do households with Section 8 vouchers automatically qualify for affordable housing under UHAC?*

Answer: Yes, a Section 8 voucher is acceptable for income qualification, provided the applicant meets the

criteria of the property manager or landlord. The Administrative Agent must still collect income verification documentation to match the household to an appropriately priced unit.

Question: *Can an existing moderate-income tenant be moved to a low-income unit when they can substantiate that there has been a change in their income? If so, can they bypass the random selection process?*

Answer: Yes, an existing tenant household may re-apply for a low-income unit within the same project if they can prove a change in their circumstances. If qualified, the tenant would be added to the applicant pool. The tenant should also be referred to the local Affordability Assistance Program, if available.

Question: *Does the Administrative Agent need to impute the value of a household's stocks as an asset?*

Answer: Only dividends from stock count towards a household's income. IRS Form-1099 from the previous year should be requested from the applicant if it was not part of their initial application.

Question: *Is there a maximum cost for the credit check?*

Answer: No, but the credit check is included in application fees which may total no more than five percent of the monthly rent.

Question: *In order to overcome inadequate or poor credit, can an applicant have a cosigner on a lease?*

Answer: No one outside the household, as certified by the Administrative Agent, may cosign or otherwise be party to any financing or legal instruments.

Question: *Does UHAC set a minimum income for eligibility for affordable housing?*

Answer: No, UHAC does not specify a minimum income for affordable housing units. However, an applicant household must be able to afford the unit and must not pay more than 33 percent for sale units or 35 percent for rental units of its monthly income (or 40 percent for age-restricted units), unless they meet the exemption criteria set forth in N.J.A.C. 5:80-26.7(b) or N.J.A.C. 5:80-26.13(b).

Question: *After I certify an applicant, how long is that certification valid*?

Answer: Pursuant to N.J.A.C. 5:80-26.16(b), an initial certification is valid for 180 days and may be extended for an additional 180 days once the household's eligibility is verified.

Question: *How do I document third-party assistance from a guarantor? For example, a relative is providing funds toward the applicant's monthly payments.*

Answer: In the case of a rental unit, the applicant should demonstrate regular deposits from third party assistance, or a notarized letter from the third party documenting future assistance. The Administrative Agent must receive a copy of the policy regarding guarantors from the developer, affordable housing provider or owner, so as to assure the policy is applied consistently.

Question: *If an applicant for affordable housing has a "reverse mortgage", how does an Administrative Agent count income from that mortgage?*

Answer: An applicant for affordable housing with a "reverse mortgage" would not be eligible for affordable housing unless that mortgage was satisfied or, at a minimum, a contract for sale of the market unit was in place. "Reverse mortgages" require that the mortgaged property remain the principal place of residence of the person taking the mortgage. Since this is also a requirement of affordable housing only one such residence can be owned or leased at any given time.

Question: *For the purpose of income-qualification, what is considered part-time income of full-time students?*

Answer: Under UHAC, part-time income of persons enrolled as fulltime students, who are reported as dependents to the IRS, is not included in income calculations for determining eligibility. COAH recommends stipulating in the Operating Manual the following criteria in applying this rule:

- A full-time student is a member of the household who is enrolled in a degree seeking program for 12 or more credit hours per semester; and
- Part-time income is income earned on less than a 35-hour workweek.

Please note that full-time income of full-time students is included in the income calculation.

O. Determining Affordable Rents

To determine the initial rents the Administrative Agent uses the COAH calculators located at http://www.nj.gov/dca/affiliates/coah/resources.calculators.html.

Pricing by Household Size. Initial rents are based on targeted "model" household sizes for each size home as determined by the number of bedrooms. Initial rents must adhere to the following rules. These maximum sales prices and rents are based on COAH's Annual Regional Income Limits Chart at the time of occupancy:

- A studio shall be affordable to a one-person household;
- A one-bedroom unit shall be affordable to a one- and one-half person household;
- A two-bedroom unit shall be affordable to a three-person household;
- A three-bedroom unit shall be affordable to a four- and one-half person household; and
- A four-bedroom unit shall be affordable to a six-person household.

Size of Unit	**Household Size Used to Determined Max Rent**
Studio/Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

The above rules are only to be used for setting initial rents. They are not guidelines for matching household sizes with unit sizes. The pricing of age-restricted units may not exceed affordability based on a two-person household.

Split Between Low- and Moderate-income Rental Units. *At least 50 percent (of the affordable* units within each bedroom distribution (unit size) must be low-income units and at least 10 percent of the affordable units within each bedroom distribution must be affordable to households earning no more than 35 percent of the regional median income. The remainder of the affordable units must be affordable to moderate-income households.

Affordability Average. The average rent for all affordable units cannot exceed 52 percent of the regional median income. At least one rent for each bedroom type must be offered for both low-income and moderate-income units. Calculation of the affordability average is available on COAH's website.

Maximum Rent. The maximum rent of restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of the regional median income.

P. Determining Rent Increases

Annual rent increases are permitted in affordable units. Rent increases are permitted at the anniversary of tenancy according to COAH's Annual Regional Income Limits Chart, available on COAH's website. These increases must be filed with and approved by the Administrative Agent. Property managers or landlords who have charged less than the permissible increase may use the maximum allowable rent with the next tenant with permission of the Administrative Agent. The maximum allowable rent would be calculated by starting with the rent schedule approved as part of initial lease-up of the development, and calculating the annual COAH- approved increase from the initial lease-up year to the present. Rents may not be increased more than once a year, may not be increased by more than one COAH-approved increment at a time, and may not be increased at the time of new occupancy if this occurs less than one year from the last rental. No additional fees may be added to the approved rent without the express written approval of the Administrative Agent.

IF APPLICABLE:
Section X: LOCAL AFFORDABILITY ASSISTANCE PROGRAM

[*Describe here any local affordability assistance program. See samples attached.*]

Sample Financing Options:

- The municipality may decide to establish a loan program or a grant program.
- If a loan program, the municipality may chose for loans to be interest-free or charge interest.
- If a grant program, the municipality may chose to forgive the grant after ten years and require no repayment, but if the unit is vacated for any reason before the ten years (sale, death, foreclosure) the balance of the grant will become payable.
- The municipality may choose to require owners of rental units to contribute a percentage of the funds to rehabilitate each eligible rental unit.

Sample Program Financing

Loans *[and/or grants]* will be interest-free *(or the municipality may choose to charge interest*) and due when title to the property is transferred. *[Insert if grants proposed:* G*rants are forgiven after 10 years and no repayment is required.]*

Should an owner-occupant die before repayment of the loan *[before 10 years for grants)*, the balance of the loan *[or grant]* will be due at the time of settlement of the estate. However, if the household inheriting the unit is income eligible and agrees to occupy the unit or even if not income-eligible agrees to rent the unit only to income-eligible households, the terms of the funding agreement shall be transferred to the inheriting household. *[Upon the transfer of title of rental units, municipalities may choose to require repayment of the funds provided or may choose to permit the transfer of the terms to the new owner(s).]* The new owner(s) must commit to keeping rental units affordable for the full 10 years specified in the original agreement.

Funding for owner-occupied units will be secured by a mortgage and mortgage note *[the municipality may chose to insert: grants may be secured through a lien]* to the municipality.

Funding for renter-occupied units will be secured by a mortgage and mortgage note to the municipality.

In situations where the non-income eligible owner(s) of eligible rental units occupies a unit in the structure to be rehabilitated, repairs to shared systems (i.e.: roof, heating, foundations, etc.) will be prorated with the owner(s) receiving no financial assistance for the owner's share.

Sample Program Financing:

If the homeowner resides in his/her unit for the 10-year period after completion, the loan will be forgiven. If the homeowner decides to vacate the home prior to the completion of the term, the loan shall become payable in full upon the date of such sale or transfer. In the event of the death of the homeowner, the loan is an immediate obligation of the beneficiary unless the beneficiary meets the required income-eligibility guidelines and resides in the unit or rents to an income-eligible household.

SAMPLE LOCAL AFFORDABILITY ASSISTANCE PROGRAMS

Security Deposit Assistance

[Municipality] will designate [*insert amount of funds from above]* of its affordable housing trust fund as a revolving Security Deposit Assistance Fund. A *[low interest, interest-free, etc]* loan from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit.

The security deposit assistance will be in the form of a cash loan equal to the security deposit amount determined by the landlord paid to the landlord on behalf of the tenant. *[Optional: The loan will accrue interest at a below-market interest rate of five points below the prime rate at the time of the signing of the lease)]*.

At the termination of the lease, the landlord will return the portion of the security deposit it determines to *[municipality]* along with the interest earned. The tenant will repay any difference between the original security deposit amount and the portion returned by the landlord *[Optional: as well as the interest accrued to the full loan amount]* to *[municipality]*. Funds returned to the municipality will be placed in the affordable housing trust fund to be used for future security deposit assistance.

Rental Assistance

[Municipality] will designate *[insert amount of funds from above]* of its affordable housing trust fund as a Rental Assistance Fund. A rental supplement from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit when only a unit in a higher income category is available (i.e.: placing a low-income household in a moderate-income unit, or placing a very-low income household in a low-income unit).

The amount of the rental supplement will be determined by *[municipality]* as the difference between the restricted rent set by the landlord and 30 percent of the renter's gross monthly income. The rental supplement will be paid directly to the landlord each month by *[municipality]* on behalf of the tenant.

Rental assistance does not need to be repaid by the tenant. If the tenant wishes to renew the lease, they must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, but qualifies for the actual rent, they may renew the lease and stay in the unit, but will no longer receive rental assistance.

Administration

[Municipality]'s Affordability Assistance Programs will be administered by *[if individual programs are administered by different agents or persons, list all]*. After an applicant is income qualified by *[insert name of entity that qualifies applicants]* pursuant to COAH's rules and the Uniform Housing Affordability Controls, or cannot be qualified due to a need for assistance, an affordability assistance application will be completed and forwarded with all necessary documentation to *[insert name of affordability assistance administrator]*.

The affordability assistance recipient will sign a contract with *[municipality]* which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within *[municipality]* and provided to all administrative agents of affordable units within *[municipality]*.

An income eligible occupant or applicant for an affordable unit within municipality may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

[Insert any additional or more detailed procedures.]

Rehabilitation Program Audit Checklist

	UP-TO-DATE OPERATING MANUAL	Comments
☐	Income Limits	
☐	List of Pre-Qualified Contractors	
☐	Sample Forms and Letters	
	MAINTENANCE OF RECORDS	
	Files To Be Maintained on Every Applicant	
☐	Preliminary Application	
☐	Application Form	
☐	Income Verification	
☐	Letter of Certification of Eligibility or	
☐	Letter of Determination of Ineligibility.	
	Files to be Maintained on Every Property	
☐	Housing Inspection Report.	
☐	Photographs – Before Certification of Property	
☐	Homeowner's Insurance	
☐	Property Deed	
☐	Eligibility or Determination of Ineligibility	
☐	Work Write-Up/Cost Estimate.	
☐	Applicant/Contractor Contract Agreement.	
☐	Mortgage/Lien Documents.	
☐	Copies of All Required Permits.	
☐	Contractor Requests for Progress Payments.	
☐	Progress Payment Inspection Reports.	
☐	Progress Payment Vouchers.	
☐	Change Orders (If Needed).	
☐	Final Inspection Report.	
☐	Photographs - After	
☐	Certification of Completion.	
☐	Certification of Release of Contractor's Bond.	
☐	**Rehabilitation Log**	
	MONITORING INFORMATION	
☐	Complete Monitoring Reporting Forms	
	PROGRAM MARKETING	
☐	Annual Public Hearing Notice on Program	
☐	Program Flyer	
☐	Program Brochure	
☐	Flyer mailed Annually to All Property Owners	
☐	Program information available in municipal building, library and senior center.	
☐	Program information posted on municipal website.	
☐	Program posters placed in retail businesses throughout the municipality.	

Rehabilitation Program Audit Checklist
For Rental Units

☐	**UP-TO-DATE OPERATING MANUAL**	**Comments**
☐	Income Limits	
☐	Sample Forms and Letters	
	AFFIRMATIVE MARKETING	
☐	Copies of Ads	
☐	Copies of PSA Requests	
☐	Copies of Marketing Requests	
	RANDOM SELECTION	
☐	Log of Applications Received	
☐	Log of Random Selection Results	
☐	Database of Referrals	
	MAINTENANCE OF RECORDS	
	Files To Be Maintained on Every Applicant	
☐	Preliminary Application.	
☐	Application Form.	
☐	Tenant Information Form	
☐	Income Verification	
☐	Letter of Certification of Eligibility or	
☐	Letter of Determination of Ineligibility	
	Files To Be Maintained on Every Rental Unit	
☐	Base rent	
☐	Identification as low- or moderate-income	
☐	Description of number of bedrooms and physical layout	
☐	Floor plan	
☐	Application materials, verifications and certifications of all present tenants, pertinent correspondence	
☐	Copy of lease	
☐	Appendix K	
	Files To Be Maintained on Every Property	
	Deed	

Appendix HE 3- Ordinance 24-34: An Ordinance to Establish the Position of Municipal Housing Liaison

CITY OF SALEM
ORDINANCE 24-34

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE II OF THE CODE OF THE CITY OF SALEM, NEW JERSEY TO ESTABLISH THE POSITION OF MUNICIPAL HOUSING LIAISON

WHEREAS, recent amendments to the Fair housing Act (P.L. 2024, c.2) require every Municipality with an obligation to report on affordable housing activity have a Municipal Housing Liaison (MHL); and

WHEREAS, it is the intent of the City to establish a new Municipal Housing Liaison; and

WHEREAS, the City wishes to amend Chapter 3, Article II (City Officials) to create the position of Municipal Housing Liaison.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SALEM:

Section 1. The above-mentioned recitals are incorporated herein as though fully set forth at length.

Section 2. Chapter 3, Article II (City Officials) of the Code of the City of Salem is hereby amended as follows:

a. Added new §3-19.5 as indicated below:

"§3-19.5 Municipal Housing Liaison.

A. The Municipal Housing Liaison must be an employee of the Municipality.
B. Responsibilities include:
   1) Serving as Municipality's primary point of contact for affordable housing.
   2) Oversee monitoring and reporting on the status of proposed and completed affordable housing units.
   3) Ensuring an administrative agent is assigned to each affordable project and overseeing compliance of administrative agents working in the Municipality.
   4) Coordinating meeting with developers, providers, Municipal officials and administrative agents as necessary.
C. The MI-IL will be required to provide credentials to DCA to be approved for this position, including attending education courses on affordable housing.

Section 3. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. 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 City Council that the balance of the Ordinance remains in full force and effect to the extent it allows the City to meet the goals of the Ordinance.

Section 5. This Ordinance shall take effect after final adoption and publication according to law.

ATTEST:

Ben Angeli, RMC

CITY OF SALEM

Tim Gregory, Council President

COUNCIL	MOVED	SECONDED	y	N	ABSTAIN	ABSENT
S.Clinc			)<			
E. Gage	X		k			
V. Groce			Ir			
S. Kellum		x'	V			
C. **Loatman**			"y			
J. Long			)r			
C. Smith						
T. Gregory			"			

I, Ben Angeli, City Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance introduced by the Common Council of the City of Salem on November 18, 2024. Public Hearing shall take place on December 16, _____ /) ___/

tl 1f 'i>tf

Date

Ben Angeli,

COUNCIL	MOVED	SECONDED	y	N	ABSTAIN	ABSENT
S.Cline			><			
E. Gage	><					
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C. **Loatman**		,>(	.><:			
J. Long			[><			
C. Smith			X:			
T. Gregory			)(			

12|16|2024

Date

Dr.J Mayor

I, Ben Angeli, City Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council of the City of Salem after a second reading and public hearing on December 16, 2024.

12|16|2024

Date

Ben Angeli, RMC

Appendix HE 4- Ordinance No. 25.___ : Ordinance Creating Chapter 237 "Affordable Housing" to Establish Regulations Regarding Administration of Affordable Housing Programs

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ORDINANCE NO. 25.___

ORDINANCE CREATING CHAPTER 237 "AFFORDABLE HOUSING" TO ESTABLISH REGULATIONS REGARDING ADMINISTRATION OF AFFORDABLE HOUSING PROGRAMS, INCLUDING REGULATION OF VERY-LOW, LOW- AND MODERATE-INCOME HOUSING UNITS CONSISTENT WITH THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), AND REGULATIONS REGARDING COLLECTION AND ADMINISTRATION OF DEVELOPMENT FEES AND THE ESTABLISHMENT OF AN AFFORDABLE HOUSING TRUST FUND

WHEREAS, the City Council of the City of Salem ("City Council") is authorized pursuant to N.J.S.A. 40:48-2 to enact and amend ordinances, and to amend the Code of the City of Salem, as deemed necessary for the preservation of the public health, safety and welfare of the City and its residents; and

WHEREAS, from time to time, the City of Salem ("City") may find it necessary to amend the City Code ("Code") for the purpose of regulating and maintaining the general welfare of the residents of the City; and

WHEREAS, the State's Fair Housing Act, N.J.S.A. 52:27D-301 et al. (the "Act") was adopted to implement the New Jersey Supreme Court ruling in Southern Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975) and Southern Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983), that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low- and moderate-income families; and

WHEREAS, on March 20, 2024, the New Jersey Legislature amended the Act, pursuant to P.L. 2024, c.2, modifying certain affordable housing methodologies, obligations, and fair share plans (the "Amended Act"); and

WHEREAS, the City desires to amend its Code to provide consistency with the requirements of the Amended Act and the Uniform Housing Affordability Controls ("UHAC") and to establish a trust fund in support of very-low, low-, and moderating income housing.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Salem, County of Salem, State of New Jersey as follows:

Section 1. Chapter 237 of the Code of the City is hereby created and entitled "Affordable Housing" as set forth below:

Chapter 237 - Affordable Housing

Section I. Purpose

237-1 Title.

This chapter shall be known as the "Affordable Housing Procedures of the City of Salem."

237-2 Purpose.

A. The purpose of this Chapter is to establish regulations regarding the City of Salem's constitutional obligation to provide for its fair share of very-low, low-, and moderate-income housing, as directed by the New Jersey Fair Housing Act of 1985, as amended. This Chapter is intended to provide assurances that very-low, low-, and moderate-income units are created with controls on affordability over time and that very-low, low-, and moderate-income households shall occupy those units. This Chapter shall apply except where inconsistent with applicable law.

B. The Salem City Joint Land Use 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 been endorsed by the governing body. This chapter implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., as amended and supplemented and N.J.A.C.5:80-26.1 et seq. as amended and supplemented.

C. The City of Salem shall file such annual monitoring reports as required by the Act regarding the status of the implementation of its housing element and fair share plan. The report shall be filed with the Department and posted on the City website.

237-3 Definitions.

All definitions found in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et al., as amended and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26, shall be incorporated by reference herein. Many of the definitions are reproduced below for ease of reference. In the event of a conflict between the terms of this Ordinance, the Act, and/or the UHAC, the UHAC shall control this Ordinance and the Act shall control both.

The following terms when used in this Ordinance shall have the meanings given in this Section:

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended.

ADAPTABLE

Constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the State Uniform Construction Code Act, N.J.S.A 52:27D-119 et seq., and in accordance with the provisions of N.J.S.A. 52:27D-123.15.

ADMINISTRATIVE AGENT

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The entity designated by the City to administer the Affordability Controls with respect to one or more Restricted Unit within the City of Salem in accordance with this Ordinance, the FHA, and the Affordability Controls.

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

AFFORDABILITY AVERAGE

An average of the percentage of median income at which restricted units in an affordable development are affordable to low-and moderate-income households.

AFFORDABILITY CONTROLS

The requirements set forth in UHAC any other regulation promulgated pursuant to the FHA to ensure that a restricted unit remains affordable as very low-income housing, low-income housing, moderate-income housing as those terms are defined in the FHA.

AFFORDABLE

In the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.13.

AFFORDABLE HOUSING DEVELOPMENT

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting by the Program and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of the household is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be 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.) and in, but not of, the Department.

ALTERNATIVE LIVING ARRANGEMENT

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

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 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 low-income household or moderate-income household.

DEPARTMENT or DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

Housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities.

DEVELOPER

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

DEVELOPMENT

Any development for which permission may be required pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

FAIR HOUSING ACT or FHA

The Fair Housing Act, N.J.S.A. 52:27D-301, et seq., as may be amended and supplemented.

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)(2)(a), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the

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affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal 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 municipal land use ordinances and regulations.

HOUSING REGION

A geographic area established pursuant to N.J.S.A. 52:27D-304.2.

INCLUSIONARY DEVELOPMENT

A residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50 percent or less of the median household income for households of the same size within the housing region in which the housing is located.

LOW-INCOME UNIT

A restricted 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 and load bearing structural systems.

MARKET-RATE UNITS

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

MEDIAN INCOME

The median income by household size for the applicable housing region, as determined by and adjusted after each federal decennial census.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income for households of the same size within the housing region in which the housing is located.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MONI

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The Agency's Market Oriented Neighborhood Investment (MONI) Program, as it may be authorized from time to time by the Agency.

MUNICIPAL HOUSING LIAISON

The employee appointed by the governing body and charged with the responsibility of coordinating and oversight of all affordable housing activities of the City of Salem, coordinating and oversight of all Administrative Agents administering any Restricted Unit within the City of Salem, ensuring compliance with the City's affordable housing obligations, submission of reports required under the FHA and any implementing regulations and such other obligations as are set forth in this Chapter.

NON-EXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses 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.

PROGRAM

The Affordable Housing Dispute Resolution Program, established pursuant to N.J.S.A 52:27D-313.2.

RANDOM SELECTION PROCESS

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

REHABILITATION

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

RENT

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

RESTRICTED UNIT

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of UHAC, but does not include a market-rate unit financed under UHORP or MONI.

SPENDING PLAN

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A method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et al. for the purpose of meeting the housing needs of low- and moderate-income individuals.

TRANSITIONAL HOUSING

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

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq., as amended and supplemented.

UHORP

The Agency's Urban Homeownership Recovery Program, as it may be authorized from time to time by the Agency Board.

VERY LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30 percent or less of the median household income for households of the same size within the housing region in which the housing is located.

VERY LOW-INCOME UNIT

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

WEATHERIZATION

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

237-4 Applicability.

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Salem pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

B. The following sections shall apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

Section II. Development Fees.

237-5 Non-residential Development fees

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A. Within all zoning districts, a fee is imposed on all non-residential developers, unless otherwise exempted below, as follows:
   (1) A fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
   (2) A fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
   (3) When an existing structure is demolished and replaced, unless the structure is demolished and replaced as a result of a fire, flood, or natural disaster:
      (a) A fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time a final certificate of occupancy is issued.
      (b) If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development.
   (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
   (2) The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, changes in use within existing footprint, reconstruction, renovations, or repairs.
   (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to N.J.S.A. 40:55D-8.4, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
   (4) A developer of a non-residential development exempted from the non-residential development fee as set forth above shall be subject to it at such time the basis for the exemption no longer applies, and, in that event, shall make the payment of the non-residential development fee within three (3) years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
   (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the City as a lien against the real property of the owner.

237-6 Collection procedures.

A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit that the development is subject to a development fee.
B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the

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instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
D. Within 90 days of receipt of that notice, the tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
F. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
G. Should the City fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in N.J.S.A. 40:55D-8.6(b).
H. The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
I. Appeal of development fees.
   (1) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the City. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

Section III. Affordable Housing Trust Fund.

237-7 Purpose.

A. In 1990, the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the adoption of rules by the Council on Affordable Housing (COAH).
B. Pursuant to N.J.S.A. 52:27D-329.2 and the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7, COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans.
C. In 2015, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal

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affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025, were under the Court's jurisdiction and subject to approval by the Court.

D. In 2024, the New Jersey Legislature abolished COAH and created a new Affordable Housing Dispute Resolution Program (the "Program"). The Program, which established new standards for the collection, maintenance, and expenditure of development fees, is consistent with COAH's regulations developed in response to N.J.S.A. 52:27D-329.2, and the Statewide Non-Residential Development Fee Act. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing.

237-8 Affordable Housing Trust Fund.

There shall be established within the City a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls to be used and applied solely for the purposes set forth herein.

A. All funds collected from developers or other persons pursuant to developer's agreements, settlement of litigation, by donation, or from sale of City property intended for or designated as funds to be used in connection with the satisfaction of the City's obligation under the Fair Housing Act or similar statute shall be deposited into the affordable housing trust fund in accordance with this Chapter.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
   (1) payments in lieu of on-site construction of affordable units;
   (2) developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
   (3) rental income from municipally operated units;
   (4) repayments from affordable housing program loans;
   (5) recapture funds;
   (6) proceeds from the sale of affordable units; and
   (7) any other funds collected in connection with the City's affordable housing program.

C. Within seven days from the opening of the trust fund account, the City shall provide the Department with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Department to permit the Department to direct the disbursement of the funds as required by law.

D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Department.

E. It is permissible for the Chief Financial Officer to deposit such funds into the general depository interest-bearing account of the City provided a separate accounting for such money is maintained.

F. In the event the City receives funds from any governmental sources or from a private organization authorized by the county, state or federal government to engage in funding for affordable housing projects which are required to be held in a separate account, the Chief Financial Officer shall be authorized to establish such separate account and to provide for the keeping of appropriate records thereon but such funds shall be otherwise considered as part of the affordable housing trust fund.

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G. Disbursements from the affordable housing trust fund shall be made by the Chief Financial Officer upon authorization of the Mayor and Council by resolution carried by the affirmative votes of the majority of the full membership of the City Council. Expenditures may be authorized from the affordable housing trust fund for any of the purposes set forth in the Spending Plan.

237-9 Basic Requirements

A. The City's Housing Element and Fair Share Plan shall include a Spending Plan for current funds in the municipal affordable housing trust fund and projected funds through the current round.

B. The City shall annually, on or before February 15, provide the Department with a detailed accounting of all development fees from developers of residential property, or payments in lieu of constructing affordable housing, that have been collected and expended the previous year.

C. No affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, may be spent or committed without first obtaining the approval of the expenditure as part of its compliance certification or by direct approval from the Department.

D. Municipal development fee trust funds shall not be expended:

(1) To reimburse for activities which occurred prior to the adoption of this Ordinance; or

(2) On administrative costs, attorney fees or court costs to obtain a judgment of repose; (ii) to contest a determination of the City's fair share obligation; or (iii) on costs of any challenger in connection to a challenge to the City's obligation, housing element, or fair share plan.

E. All fees shall be committed for expenditure within four (4) years from the date of collection unless otherwise directed by the Department. Fees not committed by the time set forth in this section shall be transferred to the New Jersey Affordable Housing Trust Fund for use in Housing Region 6.

F. The City shall set aside a portion of its development fee trust fund for the purpose of providing affordability assistance to low- and moderate-income households in affordable units included in its housing element and fair share plan.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, common maintenance expenses for units located in condominiums, rental assistance, and any other program authorized by the Department.

(2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low-income units in a municipal housing element and fair share plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall not entitle a municipality to bonus credits except as may otherwise be allowed by applicable precedent.

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G. The City may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the Department.

H. Not more than twenty percent (20%) of the revenues collected from development fees shall be expended on administration, in accordance with rules of the Department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1(f) and for expenses that are reasonably necessary for compliance with the processes of the program, including, but not limited to, the costs to the City of resolving a challenge under the program.

237-10 Use of Funds

A. The expenditure of all funds shall conform to a spending plan approved by the Department. Funds deposited in the affordable housing trust fund may be used for any activity approved by the Department to address the City's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.S.A. 52:27D-329.2 and specified in the approved spending plan.

B. Funds shall not be expended to reimburse the City for past housing activities.

C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

(2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.

(3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

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D. The City may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the Department.
E. Not more than 20% of the revenues collected from development fees shall be expended on administration, in accordance with rules of the Department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1(f)(1) and (2) and for expenses that are reasonably necessary for compliance with the processes of the program, including, but not limited to, the costs to the municipality of resolving a challenge under the program.

237-11 Monitoring

The City shall complete and return to the Department all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the City's housing program, as well as to the expenditure of revenues and implementation of the plan certified by the Department. All monitoring reports shall be completed on forms designed by the Department.

237-12 Ongoing collection of fees

A. The ability for the City to impose, collect and expend development fees shall expire with its judgment of compliance unless the City has filed an adopted Housing Element and Fair Share Plan with the Department and has received the Department's approval of its development fee ordinance.
B. If the City fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to N.J.S.A. 52:27D-320, et. seq.
C. The City shall not expend development fees after the expiration of its judgment of compliance.

Section IV. Affordable Housing Regulations

237-13 Municipality-wide Mandatory Set-Aside

A. A multi-family development providing a minimum of five (5) new housing units at a density of six (6) or more units per acre, created through a municipal rezoning permitting multi-family residential housing where not previously permitted; a use variance; a density variance increasing the permissible density at the site; or a new or amended redevelopment plan or rehabilitation plan, is required to include in the development a minimum affordable housing set-aside of 20%.

B. In the event the number of affordable housing units to be provided incudes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if

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the fractional amount is less than 0.5. The developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. If the number of market-rate units permitted includes a fraction, the number shall be rounded down.

C. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very low-income households.

D. All affordable units, including bedroom distribution thereof, shall be governed by the controls on affordability and affirmatively marketed in conformance with the UHAC, or any successor regulation, and all other applicable law.

E. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units just below the threshold.

F. This requirement shall not give any developer the right to any such rezoning, variance, redevelopment designation, or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the City to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.

G. No developer may make a payment in lieu of constructing affordable units on site, except for fractional units as noted in §12-14(B), above.

237-14 Alternative Living Arrangements.

A. The administration of an alternative living arrangement shall be in compliance with the UHAC, with the following exceptions:

(1) Affirmative marketing (N.J.A.C. 5:80-26.16), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Program;

(2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).

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

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

237-15 Phasing Schedule for Inclusionary Zoning.

A. Phasing. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed

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25	0
25+1	10
50	50
75	75
90	100

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

C. Payments-in-lieu and off-site construction. The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units offsite, shall be in accordance with the Fair Housing Act and any Declaratory Judgment and/or Settlement Agreement.

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

237-16 New Construction.

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

(1) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income. The very low-income units shall be counted as part of the required number of low-income units within the development. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 30 percent may be age restricted. At least half of the units in total shall be available to families.

(2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

(3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

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

(b) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;

(c) At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and

(d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer in accordance with the City's housing element and fair share plan.

(4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-

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income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements:

(1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

(2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

(a) An adaptable toilet and bathing facility on the first floor; and

(b) An adaptable kitchen on the first floor; and

(c) An interior accessible route of travel on the first floor; and

(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; and

(e) If not all of the foregoing requirements in Subsection B(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of B(2)(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) 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 Salem has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

(i) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

(ii) To this end, the builder of restricted units shall deposit funds within the City of Salem's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

(iii) The funds deposited under Subsection B(2)(f)(ii) above shall be used by the City of Salem for the sole purpose of making the adaptable entrance of an 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.

(iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the City of Salem for the conversion of adaptable to accessible entrances.

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(v) Once the Construction Official has determined that the design plan to convert the 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 City's Affordable Housing Trust Fund in care of the City Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(vi) 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 in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design:

(1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

(2) In inclusionary developments, low- and moderate-income units shall have access to the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

(1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits approved by the Court.

(2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

(3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.

(4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

(5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age- restricted developments, the following standards shall be used:

(a) A studio shall be affordable to a one-person household;

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(b) A one-bedroom unit shall be affordable to a one and one-half person household;

(c) A two-bedroom unit shall be affordable to a three-person household;

(d) A three-bedroom unit shall be affordable to a four and one-half person household; and

(e) A four-bedroom unit shall be affordable to a six-person household.

(6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age- restricted developments, the following standards shall be used:

(a) A studio shall be affordable to a one-person household;

(b) A one-bedroom unit shall be affordable to a one and one-half person household; and

(c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed-Rate Mortgage rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.5, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

(8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.5, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

(9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

(10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." This increase shall not exceed 5% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

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E. Multi-Family Zones/Overlay Zones:

(1) The general requirements for developments of eight dwelling units per acre set forth in this Subsection E shall apply to the following:

(a) Planning Board action on subdivision or site plan applications;

(b) Zoning Board adjustment actions and variances;

(c) Redevelopment plans adopted by the governing body; and

(d) Rehabilitation plans adopted by the governing body.

(2) Any property in the City of Salem that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside as set forth in (3) below.

(3) Any rental or for sale multi-family development of five or more units and a density of eight dwelling units per acre or greater in the City shall be required to set aside a minimum of 10 percent of the total number of units as Affordable Housing Units. Where this requirement results in a fraction of a unit, the fraction shall be rounded to the nearest whole unit. Fractions of less than 0.5 shall be rounded off to the lower unit and fractions of greater than 0.5 shall be rounded off to the higher whole unit.

(4) In inclusionary developments, low- and moderate-income units shall be integrated with the market units. However, for developments of up to 20 units, not specifically identified in the City's Fair Share Plan, the City may, in its sole discretion, permit payments-in-lieu of constructing affordable units or the construction of affordable units off-site, in accordance with [proposed N.J.A.C. 5:99-2.7]. For development of 21 to 30 units, not specifically identified in the City's Fair Share Plan, the City may, in its sole discretion, permit up to 50 percent of the required set aside to be met through payments-in-lieu of constructing affordable units or the construction of affordable units off-site, in accordance with [proposed N.J.A.C. 5:99-2.7], provided that the municipality identified how the off-site units will be provided on a one-for-one basis at the time of the final site plan approval for the inclusionary development and provides notice of information regarding the provision of the off-site units to Fair Share Housing Center ten (10) days before the site plan approval is heard. Developments of 31 units or more shall provide the units on site, with no off-site option.

(5) All payments-in-lieu referenced above shall be expended for construction of affordable units conforming to a compliance mechanism recognized in [proposed N.J.A.C. 5:99] within four years of the deposit of the payments-in-lieu in the City's Affordable Housing Trust Fund, and such expenditure shall be deemed a commitment of funds pursuant to N.J.S.A. 52:27D-329.3.

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(6) The Inclusionary Zoning Ordinance shall not be deemed an admission by the City that affordable housing set-asides automatically constitute an inherently beneficial use for purposes of zoning variances.

(7) For additional compliance mechanisms, the City agrees to rely on [proposed N.J.A.C. 5:99] with regard to the compliance mechanism specifically described therein. For additional compliance mechanisms to address unmet need, the City agrees to rely on [proposed N.J.A.C. 5:99-__].

(8) The City shall provide for a lookback at least once every three years to make sure this provision is complied with for the units built during that period.

237-17 Utilities.

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the Department for its Section 8 program.

237-18 Occupancy Standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing au undue delay in the occupancy of a unit, strive to:

A. Provide an occupant for each bedroom;

B. Provide children of different sexes with separate bedrooms;

C. Provide separate bedrooms for parents and children; and

D. Prevent more than two persons from occupying a single bedroom.

237-19 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Salem takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.

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

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

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D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

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

F. In those instances in which control periods expire, the Administrative Agent shall, within 60 days of the expiration of the control period, execute a release, substantially in the form set forth at N.J.A.C. 5:80-26 Appendix F, of all restriction instruments with respect to the unit. The owner of the restricted unit is responsible for recording the release instruments and returning the recorded originals promptly to the Administrative Agent. Upon the expiration of the control period for a restricted ownership unit established in this section, the owner of the unit may sell it to any purchaser at the fair market price.

237-20 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

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

B. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

C. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

D. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

E. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See § 12-24.

237-21 Buyer Income Eligibility.

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

B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the City Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that

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there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing mid pricing restrictions for low-income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income.

237-22 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.9(b).

237-23 Capital Improvements To Ownership Units.

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the

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purpose of selling and receiving property has taken place at the time of or as a condition of resale.

237-24 Control Periods for Restricted Rental Units.

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.12, as may be amended and supplemented and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years, until Salem takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units must contain deed restriction language that conforms with the requirements of this subchapter and is substantially in the form set forth at N.J.A.C. 5:80-26 Appendix E. The preparer of the foregoing instrument shall certify to the administrative agent that the deed restriction language at N.J.A.C. 5:80-26 Appendix E has been included therein. If the recorded deed restriction is not provided to the administrative agent within 30 days of the receipt of the certificate of occupancy, the administrative agent shall at any time thereafter send notice to the developer or seller providing a 30-day cure period. If the deed restriction is not provided within the cure period, the administrative agent shall record the deed restriction with the records office of the county on notice to the developer or seller and may bill the seller for reasonable costs associated therewith. Under no circumstances may a developer or seller be excused from any requirements of this subchapter because of a failure to record the deed restriction. If a development is sold by a developer prior to recording the deed restriction, the buyer is not excused from adhering to the requirements of this subchapter and any recourse shall be to recover from the seller rather than seeking to extinguish any affordability controls of the development.

C. 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 Salem. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

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

(1) Sublease or assignment of the lease of the unit;

(2) Sale or other voluntary transfer of the ownership of the unit; or

(3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

237-25 Rent Restrictions for Rental Units; Leases.

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent within 10 business days after execution of the lease.

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

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

D. Fees for truly optional, unit-specific, non-communal items that are charged to market-rate tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may be charged to affordable tenants, if applicable. Pet fees may not exceed $ 30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited. Fees for other optional, unit-specific, non-communal items may not exceed the amounts charged to market-rate tenants.

E. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

237-26 Tenant Income Eligibility.

A. Tenant income eligibility shall be in accordance with NJ.AC. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:

(1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

(2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

(3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent 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:

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

(2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

(3) The household is currently in substandard or overcrowded living conditions;

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(4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or

(5) The household documents reliable anticipated 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.

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

237-27 Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the Restricted Units for which the services of the Administrative Agent are required. The Administrative Agent may administer one or more affordable projects. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, and any regulations adopted pursuant to the FHA which includes:

A. Affirmative marketing:

(1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Salem the FHA, UHAC, and regulations adopted pursuant to the FHA; and

(2) Providing counseling or contracting to provide counseling services to very-low, low- and moderate-income applicants.

B. Household certification:

(1) Soliciting, scheduling, conducting and following up on interviews with interested households;

(2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

(3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendixes J and K of N.J.A.C. 5:80-26.1 et seq.;

(5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

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(6) Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Salem when referring households for certification to affordable units.

C. Affordability controls:

(1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Salem County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;

(4) Communicating with lenders regarding foreclosures; and

(5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and rentals:

(1) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

(2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

E. Processing requests from unit owners:

(1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of UHAC or other Affordability Controls;

(2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

(3) Notifying the municipality of an owner's intent to sell a restricted unit; and

(4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

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(1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

(2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

(4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund or other appropriate municipal fund approved by the DCA; and

(6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the City governing body, setting forth procedures for administering the affordability controls.

G. Additional responsibilities:

(1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

(2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the FHA, UHAC, and regulations adopted pursuant to the FHA.

(3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

(4) The Administrative Agent shall comply with all standards adopted pursuant to N.J.S.A. 52:27D-321(i)(2) and all requirements set forth in UHAC.

H. To the extent that any duties or obligations of the Municipal Housing Liaison or Administrative Agent conflict with the requirements of the FHA, UHAC, or regulations adopted pursuant to the FHA, those requirements shall control.

237-28 Affirmative Marketing Requirements.

A. The City of Salem shall adopt by resolution an Affirmative Marketing Plan, subject to

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approval of the Court, that is compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is 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 marketing activities toward Housing Region 6 and is required to be followed throughout the period of restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 6, comprised of Atlantic, Cape May, Cumberland, and Salem Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the City of Salem shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

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

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

237-29 Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit

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by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant 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 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

(a) A fine of not more than $500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

(b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Salem Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

(2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

(a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

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(b) The proceeds of the Sheriffs 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 Sheriffs sale. In the event that the proceeds from the Sheriffs sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full 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.

(c) 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 Sheriffs 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 Sheriffs sale shall not be entitled to any right of redemption.

(d) 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.

(e) Failure of the low- and moderate-income unit to be either sold at the Sheriffs 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.

(f) 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

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title is conveyed from the Owner.

237-30 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

Section 2. All other Chapters of the City Code remain valid and in effect and are not amended by this Ordinance.

Section 3. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All other provisions of the City Code are ratified and remain in full force and effect.

Section 4. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

CITY OF SALEM

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Jody M. Veler, Mayor

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Ben Angeli, City Clerk

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