

**TOWNSHIP OF WOOLWICH  
COUNTY OF GLOUCESTER  
STATE OF NEW JERSEY**

**AN ORDINANCE REPEALING AND REPLACING THE  
AFFORDABLE HOUSING ORDINANCES OF THE TOWNSHIP OF WOOLWICH,  
GLOUCESTER COUNTY, STATE OF NEW JERSEY**

**2022-05**

**WHEREAS**, the Township of Woolwich (the “Township”) has an affirmative statutory and constitutional obligation to provide its fair share of affordable housing for low- and moderate-income households within the Township; and

**WHEREAS**, to satisfy the Township’s affordable housing obligations, on January 26, 2022, the Township of Woolwich entered into a Settlement Agreement with Fair Share Housing Center to resolve the affordable housing litigation under the caption, In the Matter of the Township of Woolwich, Gloucester County, Docket No.: CPM-L-27-19 (“Affordable Housing Settlement”), which sets forth the Township’s affordable housing obligations for the Third Round; and

**WHEREAS**, part of the Township’s affordable housing obligation is to ensure that a municipality’s ordinances are designed to effectuate the provision of affordable housing in a manner that will enable the municipality to provide its fair share of affordable housing; and **WHEREAS**, upon review of its Ordinances, the Mayor and Township Committee of the Township (the “Township Committee”) have determined that the Ordinances governing affordable housing obligations within the Township are in need of amendments to reflect the current legal standards applicable to affordable housing developments, including the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (“FHA”) and the Settlement Agreement entered into between the Township of Woolwich and Fair Share Housing Center, dated January 26, 2022 (the “Settlement Agreement”); and

**WHEREAS**, the Township Committee has determined that it is in the best interest of the Township to revise and update its affordable housing Ordinances to ensure that the Township can continue to satisfy its affordable housing obligations in the future and ensure compliance with the Settlement Agreement; and

**WHEREAS**, the Township Committee has determined it is in the best interest of the Township to repeal Chapter 203, Article XII of the Code of the Township of Woolwich and replace it with the language set forth in Exhibit A; and

**WHEREAS**, the Municipal Land Use Law at N.J.S.A. 40:55D-62a requires substantial consistency of the provisions regulating zoning and land use with the adopted Land Use Plan Element and Housing Element; and

**WHEREAS**, a copy of this Ordinance has been referred to the Planning Board in accordance with N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-27 and the Planning Board has

determined that it is consistent with the adopted Land Use Plan Element and Housing Element and Fair Share Plan.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Township Committee of the Township of Woolwich as follows:

**Section 1. Purpose.** The purpose of this Ordinance is to revise and update the affordable housing Ordinances of the Township of Woolwich to reflect the current legal standards applicable to affordable housing developments and to enable the Township of Woolwich to continue to satisfy its affordable housing obligations in the future.

**Section 2. Amendment to Chapter 203, Article XII.** Chapter 203, Article XII, of the Code of the Township of Woolwich is hereby repealed in its entirety and replaced with Exhibit B attached hereto.

**Section 3. Amendment to Section 95-11.** Section 95-11 of the Code of the Township of Woolwich is hereby repealed in its entirety and replaced with the following:

**§95-11. Definitions**

All terms used in Chapter 95 shall have the meaning set forth in Section 203-91 of the Township Code.

**Section 4. Continuation.** In all other respects, the general zoning standards of Chapter 203 of the Township of Woolwich shall remain unchanged.

**Section 5. Repealer.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 6. Interpretation.** If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Township of Woolwich, then the provisions of this Ordinance shall govern.

**Section 7. Severability.** If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 8. Notice.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Gloucester County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required). The Township Clerk is also directed to give notice of the introduction and adoption of this Ordinance in accordance with N.J.S.A. 40:49-2.1.

**Section 9. Referral to Planning Board.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Woolwich for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

**BE IT FURTHER ORDAINED**, the Township Committee that this Ordinance shall take effect immediately upon (1) final passage and adoption; (2) publication in accordance with the law of the State of New Jersey; and (3) filing of the final form of the adopted ordinance by the Clerk with (a) the Gloucester County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

**ATTEST:**

**TOWNSHIP OF WOOLWICH**

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## **EXHIBIT A**

### Chapter 203. Zoning

### Article XII. Affordable Housing

#### § 203-90. Purpose

A. Purpose. The purpose of this Article is as follows:

- (1) To provide for a realistic opportunity for affordable housing as required by the New Jersey Fair Housing Act.
- (2) To effectuate the following Master Plan goals: provide housing to meet the needs of current and future Township residents by providing a full range of housing opportunities for all income levels and housing needs; encourage affordable housing close to the job centers; promote infill development.
- (3) To provide opportunities for affordable housing units within the residential centers of the Township, thereby coordinating access to employment, transportation and public facilities.
- (4) To ensure that all affordable housing units comply with the requirements of the New Jersey Fair Housing Act, regulations adopted pursuant to the New Jersey Fair Housing Act and the case law interpreting the same.

#### § 203-91. Definitions.

The following terms, as used in this article, shall have the following meanings:

##### **ACCESSORY APARTMENT**

A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

##### **ADAPTABLE**

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

##### **ADMINISTRATIVE AGENT**

The entity responsible for the administration of affordable housing units in accordance with this article, the Fair Housing Act and its implementing regulations, and UHAC, whether the Municipal Housing Liaison or the project-specific developer, sponsor or owner, as the case may be.

**AFFIRMATIVE MARKETING**

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

**AFFIRMATIVE MARKETING PLAN**

The Affirmative Marketing Plan adopted by the Township Committee of the Township of Woolwich, as may hereafter be amended and supplemented.

**AFFORDABILITY AVERAGE**

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

**AFFORDABLE HOUSING**

A residential dwelling unit that qualifies as very low-income housing, low-income housing, and/or moderate-income housing as those terms are defined in N.J.S.A. 52:27D-304 of the Fair Housing Act.

**AFFORDABLE HOUSING TRUST FUND**

The fund identified in Section 116-7 of the Township Code.

**AFFORDABLE HOUSING UNIT**

A unit of affordable housing which complies with the requirements of the Fair Housing Act, all applicable federal, state, and local government laws, ordinances, rules, and regulations applicable to Affordable Housing, including but not limited to the affirmative marketing requirements set forth in N.J.A.C. 5:80-22 and the affordability controls set forth in UHAC.

**AFFORDABLE HOUSING DEVELOPMENT**

A residential development, an inclusionary development or a mixed-use development in which at least fifteen percent (15%) of the residential units are affordable housing units, or any development identified in the Housing Element and Fair Share Plan as satisfying the Township's affordable housing obligations.

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism identified in the Housing Element Fair Share Plan addressing the Township's fair share obligation, the expenditure of any funds pursuant to the Township's spending plan and the collection of non-residential development fees and residential development fees by the Township in accordance with Chapter 95 of the Township Code.

**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 as evidenced by any one or more of the following:

- A. All the residents of the development where the unit is situated are 62 years or older;
- B. At least 80% of the units are occupied by one person that is 55 years or older; or
- C. The development has been designated by the Secretary of the United States Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ASSISTED-LIVING FACILITY**

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 and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD**

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

**COAH**

The New Jersey Council on Affordable Housing established under the Fair Housing Act pursuant to N.J.S.A. 54:27D-301, et seq. and which was abolished pursuant to the Reorganization Plan No. 001-2011 adopted by Governor Chris Christie June 29, 2011. Pursuant to Reorganization Plan No. 001-2011, all functions of COAH have been transferred to the Commissioner of the DCA.

**CONSTRUCTION OFFICIAL**

The qualified person appointed by the Township of Woolwich pursuant to the State Uniform Construction Code Act and the regulations promulgated thereunder who is responsible for the enforcement and administration of the Uniform Construction Code and related regulations within the Township of Woolwich.

**COURT**

The Superior Court of New Jersey, Law Division, Gloucester County, Vicinage 1.

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

**DEVELOPMENT**

Residential development, inclusionary development, non-residential development or mixed-use development.

**DEVELOPMENT FEE**

Money paid by a developer for improvement of property as authorized by Homdel Builder's Association v. Hlmdel, 121 N.J. 550 (1990), the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., and any Court-approved Spending Plan..

**DEVELOPER**

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

**EQUALIZED ASSESSED VALUE**

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

**FAIR HOUSING ACT**

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

**FORM N-RDF**

The document known as Form N-RDF, State of New Jersey Non-residential Development Certification/Exemption.

**HOUSING ELEMENT AND FAIR SHARE PLAN**

The portion of the Township of Woolwich's Master Plan entitled "Housing Element & Fair Share Plan" which is adopted by the Township of Woolwich Planning Board, as the same may be amended or supplemented.

**HOUSING REGION 6**

The geographic area determined pursuant to the Fair Housing Act and its implementing regulations, which consists of the counties of Atlantic, Gloucester, Cumberland, and Salem.

**HUD**

The United States Department of Housing and Urban Development.

**GREEN BUILDING STRATEGIES**

Those strategies that minimize the impact of development on the environment and enhance the health, safety and well-being of residents by producing durable, low-maintenance,

resource-efficient housing while making optimum use of existing infrastructure and community services.

**INCLUSIONARY DEVELOPMENT**

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

**JUDGMENT OF COMPLIANCE**

A judgment of compliance, a judgment of repose or a judgment of compliance and repose entered by any court of competent jurisdiction, which is the equivalent to substantive certification from the DCA acting on behalf of COAH under the Fair Housing Act.

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50% or less of the median household income.

**LOW-INCOME UNIT**

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

**MAJOR SYSTEM**

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

**MARKET-RATE UNIT**

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

**MEDIAN INCOME**

The median income by household size for the applicable county, as adopted annually by the DCA acting on behalf of COAH, or when no median income has been adopted by DCA for a given year, median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD

**MIXED-USED DEVELOPMENT**

Mixed-use development as the term is defined in N.J.S.A. 40:55D-8.3 of the Statewide Non-Residential Development Fee Act.

**MODERATE-INCOME HOUSEHOLD**

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



**MODERATE-INCOME UNIT**

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

**MUNICIPAL HOUSING LIAISON**

The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Township of Woolwich.

**NONEXEMPT 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.

**NON-RESIDENTIAL DEVELOPMENT**

Non-Residential Development as the term is defined in N.J.S.A. 40:55D-8.3 of the Statewide Non-Residential Development Fee Act.

**NON-RESIDENTIAL DEVELOPMENT FEE**

Money paid by a developer for the development of property pursuant to the Statewide Non-residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.

**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 housing unit (e.g., by lottery).

**REGIONAL ASSET LIMIT**

The maximum housing value in Housing Region 6 affordable to a four-person household with an income at 80% of the annual regional median income.

**REHABILITATION**

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

**RENT**

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

## **RESIDENTIAL DEVELOPMENT**

Any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is: (1) designated to a residential use group according to the State Uniform Construction Code promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; or (2) designated as Class 2 or Class 4C pursuant to the New Jersey taxation property classifications set forth in N.J.A.C. 18:12-2.2, as may hereafter be amended and/or supplemented.

## **RESIDENTIAL DEVELOPMENT FEE**

Money paid by a developer for the development of property pursuant to this Chapter 95 for residential development.

## **RESIDENTIAL DEVELOPMENT FEE FORM**

The official form adopted by the Township of Woolwich by way of Resolution, as may be amended from time to time, which shall be used for determining the residential development fee required for all residential development and the residential portion of any mixed-use development pursuant to this Chapter 95.

## **RESTRICTED UNIT**

A dwelling unit, whether a rental unit or for-sale unit, that is subject to the affordability controls set forth in UHAC, as may be amended and supplemented, but does not include a market-rate unit financed under the Urban Home Ownership Recovery Program (UHORP) or Market-Oriented Neighborhood Investment Program (MONI).

## **SPENDING PLAN**

The plan to spend funds deposited into the Affordable Housing Trust Fund, prepared by the Township of Woolwich and approved by the DCA on behalf of COAH or by a court of competent jurisdiction.

## **STATEWIDE NON-RESIDENTIAL DEVELOPMENT FEE ACT**

Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., as the same may be amended and supplemented.

## **UHAC**

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

## **VERY-LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the median household income.

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

An affordable housing 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 rehabilitation.

### § 203-92. Affordable housing obligation.

A. This article is intended to assure that affordable housing units are created with controls on affordability over time and that very-low income households, low-income households and moderate-income households shall occupy these units. This article shall apply except where inconsistent with applicable law.

B. The Planning Board of the Township of Woolwich 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 Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Township of Woolwich shall address its fair share of affordable housing units.

C. This article implements and incorporates the Fair Share Plan and addresses the requirements of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. and its implementing regulations, as may be amended and supplemented.

D. The Township of Woolwich shall file monitoring reports with the DCA acting on behalf of COAH in accordance with the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. and its implementing regulations, where substantive certification has been granted, or with any other entity identified in any judgment of compliance, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by the Township of Woolwich shall be available to the public at the Township of Woolwich Municipal Building, Municipal Clerk's office, 33 Mechanic Street, Gloucester Court House, NJ 08210.

### § 203-93. Affordable housing programs.

In satisfying its affordable housing obligations, the Township of Woolwich may use one or more of the following mechanisms to satisfy its affordable housing obligations: rehabilitation, municipally sponsored and one-hundred-percent affordable developments, supportive and special needs housing, sites zoned in previously adopted plans, and sites yielding affordable housing units as a condition of development approval. The official mechanisms that the Township of Woolwich will utilize to satisfy its affordable housing obligations are set forth in the Township's Housing Element and Fair Share Plan.

#### A. Rehabilitation program.

(1) The Township of Woolwich's rehabilitation program shall be designed to renovate deficient housing units occupied by very low-income households, low-income households and/or moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.

(2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds. To accomplish the rehabilitation of rental units, the Township of Woolwich commits to the expansion of its rehabilitation activity through the establishment of a program specifically addressing the rehabilitation of rental units, such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.

(3) All rehabilitated units shall remain affordable to very low-income households, low-income households and/or moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien, and for renter-occupied units, the control period will be enforced with a deed restriction.

(4) The Township of Woolwich shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.

(5) The Township Committee of the Township of Woolwich shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Woolwich.

(6) The Township of Woolwich shall designate one or more administrative agents to administer the rehabilitation program in accordance with the Fair Housing Act and its implementing regulations. The administrative agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and consistent with all applicable requirements of the Fair Housing Act and its implementing regulations. Both rehabilitation manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).

(7) Units in a rehabilitation program shall be exempt from UHAC but shall be administered in accordance with the following:

(a) 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 rent and affirmatively marketed pursuant to UHAC and the Township of Woolwich's Affirmative Marketing Plan.

(b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to UHAC.

(c) Rents in rehabilitated units may increase annually based on the standards in UHAC.

(d) Applicant and/or tenant households shall be certified as income-eligible in accordance with UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

(8) All rehabilitated units shall be improved to the standards set forth in the State Uniform Construction Code.

B. Municipally sponsored and one-hundred-percent affordable development program.

(1) Under a municipally sponsored and one-hundred-percent affordable development program, the Township of Woolwich will serve either as the primary sponsor or enter into a partnership with a nonprofit or other housing provider to facilitate the construction of developments in which all units are available to very low-income households, low-income households and moderate-income households.

(2) The following provisions shall apply to municipally sponsored and one-hundred-percent affordable developments:

(a) All sites shall meet the site suitability criteria set forth in the Fair Housing Act and its implementing regulations.

(b) The Township of Woolwich or developer/sponsor shall have control or the ability to control the site(s).

(c) The construction schedule shall provide for construction to begin within two years of substantive certification or in accordance with the Township of Woolwich's implementation schedule pursuant to the Fair Housing Act and its implementing regulations.

(d) The first floor of all townhouse dwelling units and of all other multistory dwelling units must be adaptable and comply with the Fair Housing Act and its implementing regulations.

(3) The units shall comply with UHAC.

(4) Within each municipally sponsored and one-hundred-percent affordable development, all of the affordable housing units shall be divided equally between low-income households and moderate-income households and a minimum of 13% of the all affordable housing units shall be affordable to households earning no more than 30% of the median gross income for households of the same size within Housing Region 6.

#### C. Supportive and special needs housing program.

(1) A supportive and special needs housing program is established to promote opportunity for housing which includes, but is not limited to, residential health care facilities as licensed and/or regulated by DCA or the New Jersey Department of Health if the facility is located with, and operated by, a licensed health care facility; group homes for people with developmental disabilities and mental illness as licensed and/or regulated by the New Jersey Department of Human Services; permanent supportive housing; and supportive shared-living housing.

(2) The following provisions shall apply to group homes, residential health care facilities, supportive shared-living housing, and permanent supportive housing:

(a) Occupancy shall not be restricted to youth under 18 years of age.

(b) All sites shall meet the site suitability criteria set forth in the Fair Housing Act and its implementing regulations.

(c) The municipality or developer/sponsor shall have site control or the ability to control the site(s).

(d) The bedrooms and/or units shall comply with UHAC with the following exceptions:

(i) Affirmative marketing (N.J.A.C. 5:80-26.15); however, group homes, residential health care facilities, permanent supportive housing and supportive shared-living housing shall be affirmatively marketed to individuals with special needs in accordance with a plan that is consistent with all applicable requirements of the Fair Housing Act and its implementing regulations;

(ii) Affordability average and bedroom distribution as set forth in UHAC; and

(iii) With the exception of units established with capital funding through a twenty-year operating contact with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared-living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Fair Housing Act and its implementing regulations.

#### D. Sites zoned in previously adopted plans.

(1) Site(s) in a previously certified fair share plan or judgment of compliance shall retain such zoning in any future round fair share plan, provided that the sites are approved by the Court for inclusion in the future round in a judgment of compliance, or:

(a) The DCA acting on behalf of COAH determines that the site continues to present a realistic opportunity pursuant to Subsection D(2) below; and

(b) The site was subject to an agreement pursuant to COAH's mediation process or part of a negotiated settlement in court; or, in the alternative, the developer of the site has filed a development application with the municipality prior to the expiration of the second-round substantive certification period or the municipal petition for substantive certification for the 1999 through 2018 period, whichever is later.

(2) A zoned but unbuilt site that was included in a housing element and fair share plan that received prior-round substantive certification or a judgment of compliance shall be evaluated at the time the municipality petitions for the third round to determine if the site continues to present a realistic opportunity for the construction of affordable housing. Where a judgment of compliance is sought, a zoned but unbuilt site that was included in a housing element and fair share plan that received prior-round substantive certification or a judgment of compliance shall be evaluated by a court of competent jurisdiction at the time that the judgment of compliance is sought to determine if the site continues to present a realistic opportunity for the construction of affordable housing.

#### E. Conversions.

Affordable housing units created through the conversion of a nonresidential structure into a residential structure shall be treated as new construction, subject to the requirements set forth in Section ~~250~~-805 and will be subject to the thirty-year controls on affordability as set forth in a deed restriction.

**Commented [L1]:** What is section 250-805?

#### § 203-94. New construction.

The following general guidelines apply to all newly constructed affordable housing developments and newly constructed affordable housing units, including any currently unanticipated future

developments that will provide very-low income units low- income units and moderate-income units.

A. Low/moderate split and bedroom distribution of affordable housing units.

(1) The fair share obligation shall be divided equally between low-income unit 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 across bedroom distribution shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.

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

(3) Affordable housing 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% of the total low-income unit and moderate-income units;

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

(c) At least 20% of all low-income unit 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.

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

(5) Affordable housing developments which constructed pursuant to low-income tax credit regulations shall be exempt from the requirements set forth in Section 250-805(A) above, provided they otherwise comply with the low-income tax credit regulations.

B. Accessibility requirements:

(1) All affordable housing units shall be adaptable in conformance with P.L. 2005, c.350, N.J.S.A. 52:27D-311a and N.J.S.A. 52:27D-311b and shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(2) All affordable housing units within an affordable housing development and all restricted units in other multistory buildings in which a restricted 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;
- (b) An adaptable kitchen on the first floor;
- (c) An interior accessible route of travel on the first floor;
- (d) An interior accessible route of travel shall not be required between stories within an individual unit;
- (e) 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
- (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 the Township of Woolwich has collected funds from the developer sufficient to make 10% 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 Township of Woolwich's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable housing units that have been constructed with adaptable entrances.
  - (iii) The funds deposited under Subsection B(2)(f)(ii) above shall be used by the Township of Woolwich for the sole purpose of making the adaptable entrance of any affordable housing 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 for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Woolwich.
  - (v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Woolwich's Affordable Housing Trust Fund in care of the Municipal Treasurer, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - (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.

Design:



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

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

C. Maximum rents and sales prices.

(1) Income limits for all affordable housing units shall be updated by the Township annually either (a) in reliance upon the annual “Affordable Housing Regional Income Limits By Household Size” schedule prepared by the Affordable Housing Professionals of New Jersey (AHPNJ), or (b) within thirty (30) days of the publication of determinations of median income by the United States Department of Housing and Urban Development (“HUD”) as follows:

(i) Regional income limits shall be established for the Housing Region in which the Township is located (in this case, Housing Region 6) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township’s housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

(ii) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually either (a) in reliance upon the annual “Affordable Housing Regional Income Limits By Household Size” schedule prepared by the Affordable Housing Professionals of New Jersey (AHPNJ), or (b) by taking the percentage increase of the income limits calculated pursuant to paragraph 17a above over the previous year’s income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

The income limits attached as Exhibit D to the Settlement Agreement between the Township and Fair Share Housing Center, dated January 27, 2022 shall be utilized as the income limits until the Township updates the income limits as set forth above.

(2) The maximum rent for rental affordable housing units within each development shall be affordable to households earning no more than 60% of median income, and the average rent for all affordable housing units shall be affordable to households earning no more than 52% of median income. Gross rents, including an allowance for utilities, shall be established so as not to exceed 30% of the gross monthly income of the appropriate household size.

(3) The administrative agent of rental affordable housing units shall establish at least one rent for each bedroom type for very-low income unit, low-income unit and moderate-income units.

(4) Pursuant to N.J.S.A. 52:27D-329.1, at least 13% of all affordable housing units provided in a development across bedroom distribution shall be affordable to households earning no more than 30% of the median gross income for households of the same size within Housing Region 6. Within each municipally sponsored and one-hundred-percent affordable housing development, a minimum of 13% of the units provided shall be so restricted. The very-low income units shall be counted as part of the required number of low-income units within the development.

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

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

- (a) A studio or efficiency shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one-and-one-half person household;
- (c) A two-bedroom unit shall be affordable to a three-person household;
- (d) A three-bedroom unit shall be affordable to a four-and-one-half person household; and
- (e) A four-bedroom unit shall be affordable to a six-person household.

(7) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted-living facilities, the following standards shall be used:

- (a) A studio or efficiency 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.

(8) The initial purchase price for all for-sale affordable housing units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(9) The price of owner-occupied affordable housing units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

(10) The rent of affordable housing units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% 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.

(11) Utilities. For both for-sale affordable housing units and rental affordable housing units, the affordable housing units shall utilize the same heating source as the market-rate units within the development. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

D. Unit Mix Requirements. All affordable housing units shall comply with the required unit mix.

(1) At least fifty percent (50%) of the affordable housing units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.

(2) No more than fifty percent (50%) of the affordable housing units shall be affordable to moderate-income households.

(3) At least Thirteen percent (13%) of all affordable housing units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, shall be very-low-income units for households earning thirty percent (30%) or less of the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA"), with half of the very low income units being available to families.

E. Affordable Housing units will be built in accordance with the following schedule:

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

F. Upon request from the developer, the Township of Woolwich will eliminate cost-generating features from Woolwich’s land use ordinances that are not essential to the public welfare in accordance with Section 14(b) of the Fair Housing Act. Upon request from the developer, the Township of Woolwich will also expedite or fast track municipal approvals/denials on affordable housing development applications.

G. Prior to or simultaneously with the submission of any application for development, as the term is defined in N.J.S.A. 40:55D-3, or any application for a zoning permit, for any affordable housing development or any development in which affordable housing units are proposed, the developer shall submit to the Municipal Housing Liaison notice of the application along with information advising of the number of affordable housing units proposed to be created as part of the development.

H. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market rate units, and the affordable housing units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market rate units. In buildings with multiple dwelling units, this shall mean that the affordable housing units shall be generally distributed within each building with market rate units. The residents of the affordable housing units shall have full and equal access to all of the entryways, amenities, common areas, and recreation areas and facilities as the residents of the market rate units.

I. Affordability Controls. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. (“UHAC”), including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very-low-income households earning thirty percent (30%) or less of median income pursuant to the FHA. All of the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Township, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years. If the Township acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household N.J.A.C. 5:80-26.11(b).

§ 203-95. Affirmative marketing requirements.

All affordable housing units shall be affirmatively marketed in accordance with the following requirements:

A. The Township of Woolwich has adopted by resolution an Affirmative Marketing Plan compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented and the Fair Housing Act and its implementing regulations.

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 also intended to target those potentially eligible persons who are least likely to apply for affordable housing units in that region. It is a continuing program that directs all marketing activities toward Housing Region 6 and covers the period of deed restriction.

C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 6.

D. The administrative agent shall assure the affirmative marketing of all affordable housing units consistent with the Affirmative Marketing Plan for the municipality. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Woolwich to the following entities:

Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP (4326 Harbor Beach Blvd. #775, Brigantine, NJ 08203), the Latino Action Network (P.O. Box 943, Freehold, NJ 07728), Cape Hope (1304 Rt. 47, Unit L, Rio Grande, NJ 08242), the Gloucester County, Mainland/Pleasantville, Atlantic City, Burlington, and Camden Branches of the NAACP; and the Supportive Housing Association of New Jersey (185 Valley Street, South Orange, NJ 07079).

In addition, the administrative agent shall post specific notice of the availability of affordable housing units in Woolwich on the New Jersey Housing Resource Center website in accordance with applicable law.

Advertisements for affordable housing units shall include, at a minimum, a description of the following:

- (1) Street address of the affordable housing units;
- (2) Direction to the affordable housing units;
- (3) Number of bedrooms per affordable housing unit;
- (4) Range of prices/rents;
- (5) Size of units;
- (6) Income information; and

(7) Location of applications, including business hours and where/how applications can be obtained.

E. In implementing the Affirmative Marketing Plan, the administrative agent shall provide a list of counseling services to applicants for an affordable housing unit on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Applications shall be mailed to prospective applicants upon request.

F. The affirmative marketing process for available affordable housing units shall begin at least four months prior to the expected date of occupancy. In no event shall there be any discrimination in the sale, rental, financing or other services related to housing on the basis of race, creed, color, national origin, ancestry, marital or familial status, gender, religion affectional or sexual orientation, disability, age or familial size or number of children,

G. The costs of advertising and affirmative marketing of the affordable housing units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Woolwich.

H. Households who live or work in Atlantic, Gloucester, Cumberland, and Salem Counties may be given preference for the for-sales and rental affordable housing units constructed within the housing region. Applicants living outside Housing Region 6 shall have an equal opportunity for the units after regional applicants have been initially serviced.

#### § 203-96. Occupancy standards.

All affordable housing units shall comply with the following:

A. In referring certified households to specific affordable housing units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sex with separate bedrooms; and
- (3) Prevent more than two persons from occupying a single bedroom.

B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal operating manual.

C. A Certificate of Reoccupancy shall be required prior to the occupancy of any affordable housing unit resulting from a resale.

#### § 203-97. Control periods for for-sale units and enforcement mechanisms.

All affordable housing units which are for-sale units shall comply with the following:

A. Control periods for for-sale affordable housing units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each for-sale affordable housing unit shall remain subject to the requirements of this article until the Township of Woolwich elects to release the unit from such requirements; however, and prior to such an election, a for-sale affordable housing unit

must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

B. The affordability control period for a for-sale affordable housing 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 for-sale affordable housing 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 nonrestricted, fair market value of the unit if it were a market-rate unit based on either an appraisal or the unit's equalized assessed value, subject to the approval of the Municipal Housing Liaison.

D. At the time of the first sale of a for-sale affordable housing unit, the 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 nonexempt sale after the unit's release from the requirements of this article, an amount equal to the difference between the unit's nonrestricted fair market value if it were a market rate unit 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 article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to for-sale affordable housing units.

F. A for-sale affordable housing unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 203-98. Price restrictions for for-sale units; homeowner association fees; resale prices.

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

A. The initial purchase price for a for-sale affordable housing unit shall be set by the administrative agent and approved by the Municipal Housing Liaison.

B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards. All resale prices shall be approved by the Municipal Housing Liaison.

C. Master deeds of affordable housing developments will regulate condominium or homeowner association fees or special assessments for affordable housing units at a rate equal to at least 33% but no more than 50% of those paid by market rate units. Once established within the master deed, the percentages shall not be amended without prior approval from the DCA acting on behalf of COAH or a court of competent jurisdiction. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the affordable housing unit owners and the market-unit owners.

D. The owners of for-sale affordable housing units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of

a bathroom. The administrative agent shall make the initial determination as to the eligibility of maximum sale price increases, provided that all maximum sale price increases shall be approved by the Municipal Housing Liaison.

§ 203-99. Buyer income eligibility.

A. Buyer income eligibility for for-sale affordable housing units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that very-low income units shall be reserved for households with a gross household income of less than or equal to 30% of median income, low-income units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income units shall be reserved for households with a gross household income less than 80% of median income.

B. The administrative agent shall certify a household as eligible for a for-sale affordable housing unit when the household is a very-low income household, a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§ 203-100. Limitations on indebtedness secured by a for-sale unit; subordination.

A. Prior to incurring any indebtedness to be secured by a for-sale affordable housing unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

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

§ 203-101. Control periods for rental units.

All affordable housing units which are rental units shall comply with the following:

A. Control periods for rental affordable housing units shall be in accordance with UHAC, and N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each rental affordable housing unit shall remain subject to the requirements of this article until the Township of Woolwich elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and, prior to such an election, a rental affordable housing unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

B. Deeds of all real property that include rental affordable housing units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property,



and the deed restriction shall be filed by the developer or seller with the records office of the County of Gloucester. A copy of the filed document shall be provided to the administrative agent and the Municipal Housing Liaison within 30 days of the receipt of a certificate of occupancy.

C. A rental affordable housing unit shall remain subject to the affordability controls of this article, 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.

§ 203-102. Price restrictions for rental units; leases.

All affordable housing units which are rental units shall comply with the following:

A. A written lease shall be required for all rental affordable housing units, except for units in assisted-living facilities, 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 rental affordable housing unit shall be provided to the administrative agent and the Municipal Housing Liaison.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in assisted-living facilities, to cover the customary charges for food and services) without the express written approval of the administrative agent and the municipal housing liaison.

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 rental affordable housing unit as set forth in this article.

§ 203-103. Tenant income eligibility.

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

- (1) Very-low-income units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- (2) Low-income units shall be reserved for households with a gross household income less than or equal to 50% of median income.
- (3) Moderate-income units shall be reserved for households with a gross household income less than 80% of median income.

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

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

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

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

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

(5) 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.

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

#### § 203-104. Enforcement of affordable housing regulations.

A. Upon the occurrence of a breach of this Chapter 203, Article XII or any of the regulations governing the affordable housing unit by an administrative agent, owner, sponsor, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in 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 administrative agent, owner, sponsor, developer or tenant of an affordable housing unit and advising the administrative agent, owner, sponsor, developer or tenant of the penalties for such violations, the municipality may take the following action against the administrative agent, owner, sponsor, 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 administrative agent, owner, sponsor, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units, the administrative agent, owner, sponsor, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:

(a) The penalty provided in Chapter 1, General Provisions, Article I, Adoption of Code by Township Committee; General Penalty, § 1-15, General penalty.

(b) In the case of an owner who has rented his or her affordable housing unit in violation of the regulations governing affordable housing units, payment into the Township of Woolwich Affordable Housing Trust Fund of the gross amount of rent illegally collected.

(c) In the case of an owner who has rented his or her affordable housing unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

(2) The municipality may file a court action in the Superior Court seeking a judgment which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the affordable housing unit.

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable housing unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the affordable housing unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

E. Foreclosure by the municipality due to violation of this Chapter 203, Article XII or the regulations governing affordable housing units shall not extinguish the restrictions and provisions of this Chapter 203, Article XII or the regulations governing affordable housing units as the same apply to the affordable housing unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of this Chapter 203, Article XII and the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this Chapter 203, Article XII or the regulations governing affordable housing units and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable housing 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 affordable housing unit could have been sold under the terms

of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

G. Failure of the affordable housing unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the affordable housing unit as permitted by the regulations governing affordable housing units.

H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions governing affordable housing units until such time as title is conveyed from the owner.

§ 203-105. Appeals.

Appeals from all decisions of an administrative agent designated pursuant to this article shall be filed in writing with the Executive Director of the DCA or the Law Division of the Superior Court of New Jersey.