

ARTICLE VIII Affordable Housing

§300-83 Purpose

The purpose of this ordinance is to address the requirements of the Council on Affordable Housing (COAH) regarding compliance with the City of Vineland's prior round and third round affordable housing obligations.

§300-84 Affordable Housing Obligation

- A. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- B. The City of Vineland Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the City of Vineland shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- C. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- D. Within all zoning districts, residential developers who construct four (4) or more dwelling units or who create building lots for four (4) or more dwelling units, except for developers of the types of development specifically exempted in the Affordable Housing Development Fees portion of this chapter, shall have an affordable housing obligation of one (1) affordable unit for every four (4) market rate units. Developers who have an affordable housing obligation that includes a fractional share may either round up or utilize the payment-in-lieu option to meet the fractional share.
- E. The City of Vineland shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, 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 COAH in accordance with N.J.A.C. 5:96 shall be available to the public at Vineland City Hall, City Clerk's Office, 640 E. Wood Street, Vineland, New Jersey 08360 or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

§300-85 Definitions

- A. Words and phrases used in this section shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined elsewhere in this chapter, shall be given the meanings set forth in said chapter. Words and phrases not defined in this chapter, but defined in the New Jersey Annotated Code or the New Jersey Statutes Annotated, shall be given the meanings set forth in said code or statutes. For words and phrases for which no definition is available in this chapter or the New Jersey Annotated Code or the New Jersey Statutes Annotated, the Illustrated Book of Development Definitions, authored by Harvey S. Moskowitz and Carl G. Lindbloom, published by Rutgers University in 1981, may be used as a guide. All other words and phrases shall be given their common, ordinary meanings, unless the context clearly requires otherwise.
- B. The following definitions shall be applicable to this chapter:

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

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

ADMINISTRATIVE AGENT – Any entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

AFFORDABLE – Any sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT – Any housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT – Any development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

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 – Any housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

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

ASSISTED LIVING RESIDENCE – Any facility licensed by the New Jersey Department of Health and Senior Services 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 – Any household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

COAH of COUNCIL - The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA- The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT – Any 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.

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

DEVELOPMENT – Any division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

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

LOW-INCOME HOUSEHOLD – Any household with a total gross annual household income equal to fifty (50) percent or less of the median household income.

LOW-INCOME UNIT – Any 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 or load bearing structural systems.

MARKET-RATE UNIT – Any housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME - The median income by household size for the applicable county, as adopted annually by COAH.

MODERATE-INCOME HOUSEHOLD – Any household with a total gross annual household income in excess of fifty (50) percent but less than eighty (80) percent of the median household income.

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

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.

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

REGIONAL ASSET LIMIT - The maximum housing value in each housing region affordable to a four (4) person household with an income at eighty (80) percent of the regional median as defined by COAH's adopted Regional Income Limits published annually by COAH.

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

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

RESTRICTED UNIT – Any dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

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

VERY LOW-INCOME HOUSEHOLD – Any household with a total gross annual household income equal to thirty (30) percent or less of the median household income.

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

WEATHERIZATION – Any 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.

§300-86 Affordable Housing Programs

A. The City of Vineland has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

(1) A Rehabilitation program.

- (a) The City of Vineland’s rehabilitation program shall be designed to renovate deficient housing units occupied by low- and 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.
- (b) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (c) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of ten (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.
- (d) The City of Vineland 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.
- (e) The City of Vineland shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the City of Vineland.

- (f) The City of Vineland shall designate, subject to the approval of COAH, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. 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 subject to approval of COAH. Both rehabilitation manuals shall be available for public inspection in the Office of the City Clerk and in the office(s) of the Administrative Agent(s).

- (g) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - [1] 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 N.J.A.C. 5:97-9 and UHAC.
 - [2] 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 N.J.A.C. 5:97-9 and UHAC.
 - [3] Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - [4] Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

(2) A Market to Affordable program.

(a) A market to affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of (b)[3] below, the market to affordable programs may produce both low- and moderate-income units (the program may be limited to only low- or only moderate-income units as per the Fair Share Plan).

(b) The following provisions shall apply to market to affordable programs:

- [1] At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
- [2] The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.

- [3] The municipality will provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
 - [4] The maximum number of creditable market to affordable units shall be equal to no more than ten (10) for sale units and ten (10) rental units or a combined total of ten (10) percent of the fair share obligation, whichever is greater. (Additional units may be approved by COAH if the municipality demonstrates the successful completion of its initial market to affordable program.)
- (c) The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
- [1] Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c));
 - [2] Low/moderate income split (N.J.A.C. 5:80-26.3(a)); and
 - [3] Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however:
 - [a] The maximum rent for a moderate-income unit shall be affordable to households earning no more than sixty (60) percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than forty-four (44) percent of median income; and
 - [b] The maximum sales price for a moderate-income unit shall be affordable to households earning no more than seventy (70) percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than forty (40) percent of median income.

(3) Payments-in-lieu.

- (a) The standards for the collection of payments-in-lieu of constructing affordable units shall be in accordance with N.J.A.C. 5:97-6.4.
- (b) The amount of the payments-in-lieu shall be as established by COAH for Region 6.

(4) Construction of Affordable Units Off-site.

- (a) The standards for constructing affordable units off-site shall be in accordance with N.J.A.C. 5:97-6.4.

(b) Affordable units constructed off-site shall be scattered.

(5) Reserved

(6) Inclusionary Zoning

(a) Presumptive densities and set-asides - To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning permits minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:

[1] Inclusionary zoning in Planning Area 1 permits residential development at a presumptive minimum density of eight (8) units per acre and a presumptive maximum affordable housing set-aside of twenty-five (25) percent of the total number of units in the development;

The zoning of a MF Multi-Family Zone, if within a Planning Area 1, provides for a twenty-five (25) percent set-aside for restricted units and a density of eight (8) units per acre. Density shall be calculated in accordance with the standards contained within the zoning ordinance.

[2] Inclusionary zoning in Planning Area 2 permits residential development at a presumptive minimum density of six (6) units per acre and a presumptive maximum affordable housing set-aside of twenty (25) percent of the total number of units in the development;

The zoning of a MF Multi-Family Zone, if within a Planning Area 2, provides for a twenty-five (25) percent set-aside for restricted units and a density of six (6) units per acre. Density shall be calculated in accordance with the standards contained within the zoning ordinance.

(b) 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
25	0
25+1	10
50	50
75	75
90	100

(c) Design - In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units. The developer is encouraged

to disburse the affordable units being provided within the inclusionary development throughout the development. The developer shall place the affordable units within buildings designed to be architecturally indistinguishable from the market rate units otherwise being constructed with the development. The that end, the scale, massing, roof pitch and architectural detailing (e.g., selection of exterior materials, doors, windows, etc.) of the buildings containing the affordable housing units shall be similar to an compatible with that of the market rate units.

- (d) Utilities - Affordable units shall utilize the same type of heating source as market units within the affordable development.

§300-87 New Construction

A. The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

(1) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- (a) 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.
- (b) In each affordable development, at least fifty (50) percent of the restricted units within each bedroom distribution shall be low-income units.
- (c) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - [1] The combined number of efficiency and one (1) bedroom units shall be no greater than twenty (20) percent of the total low- and moderate-income units;
 - [2] At least thirty (30) percent of all low- and moderate-income units shall be two (2) bedroom units;
 - [3] At least twenty (20) percent of all low- and moderate-income units shall be three (3) bedroom units; and
 - [4] The remaining units may be allocated among two (2) and three (3) bedroom units at the discretion of the developer.
- (d) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by

having all one (1) bedroom units or by having a two (2) bedroom unit for each efficiency unit.

(2) Accessibility Requirements:

- (a) 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 N.J.A.C. 5:97-3.14.
- (b) 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 (1) other dwelling unit shall have the following features:
 - [1] An adaptable toilet and bathing facility on the first floor;
 - [2] An adaptable kitchen on the first floor;
 - [3] An interior accessible route of travel on the first floor;
 - [4] An interior accessible route of travel shall not be required between stories within an individual unit;
 - [5] 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
 - [6] 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 and N.J.A.C. 5:97-3.14, or evidence that the City of Vineland has collected funds from the developer sufficient to make ten (10) percent of the adaptable entrances in the development accessible:
 - [a] 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.
 - [b] To this end, the builder of restricted units shall deposit funds within the City of Vineland's affordable housing trust fund sufficient to install accessible entrances in ten (10) percent of the affordable units that have been constructed with adaptable entrances.
 - [c] The funds deposited under paragraph [b] above shall be used by the City of Vineland for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [d] 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 City of Vineland.

[e] 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 N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the City of Vineland's Affordable Housing Trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

[f] 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 and N.J.A.C. 5:97-3.14.

(3) Maximum Rents and Sales Prices

(a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.

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

(c) The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units.

[1] At least ten (10) percent of all low- and moderate-income rental units shall be affordable to households earning no more than thirty (30) percent of median income.

(d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70) percent of median income, and each affordable development must achieve an affordability average of fifty-five (55) percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different prices for each bedroom type, and low-income ownership units must be available for at least two (2) different prices for each bedroom type.

(e) 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:

[1] A studio shall be affordable to a one (1) person household;

- [2] A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - [3] A two (2) bedroom unit shall be affordable to a three (3) person household;
 - [4] A three (3) bedroom unit shall be affordable to a four and one-half (4.5) person household; and
 - [5] A four (4) bedroom unit shall be affordable to a six (6) person household.
- (f) 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:
- [1] A studio shall be affordable to a one (1) person household;
 - [2] A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - [3] A two (2) bedroom unit shall be affordable to a two (2) person household or to two (2) one (1) person households.
- (g) 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 ninety-five (95) percent 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 twenty-eight (28) percent 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.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty (30) percent 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.
- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (j) The rent of low- and moderate-income 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 nine (9) percent in any one (1) 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.

- (k) Utilities - 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.

§300-88.1 Affirmative Marketing Requirements

A The following general guidelines 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.

- (1) The City of Vineland shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 6 and covers the period of deed restriction.
- (3) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 6 comprised of Atlantic, Cape May, Cumberland and Salem Counties.
- (4) The administrative agent designated by the City of Vineland shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (5) 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.

- (6) The affirmative marketing process for available affordable units shall begin at least four (4) months prior to the expected date of occupancy.
- (7) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the City of Vineland.

§300-88.2 Occupancy Standards

- A. 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:
 - (1) Provide an occupant for each bedroom;
 - (2) Provide children of different sex with separate bedrooms; and
 - (3) Prevent more than two (2) persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the City Operating Manual.

§300-88.3 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. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the City of Vineland elects to release the unit from such requirements however, and prior to such an election, a restricted ownership 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 thirty (30) years.
- 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.
- D. At the time of the first sale of the 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 non-exempt sale after the unit's release from the requirements of 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. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§300-88.4 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, as may be amended and supplemented, including:
 - (1) The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
 - (2) The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
 - (3) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

- (4) The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§300-88.5 Buyer Income Eligibility

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty (50) percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty (80) percent of median income.
- B. 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 thirty-three (33) percent of the household's certified monthly income.

§300-88.6 Limitations on Indebtedness Secured by Ownership Unit and Subordination

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- 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 restricted ownership unit to exceed 95 percent 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).

§300-88.7 Control Periods for Restricted Rental Units

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the City of Vineland 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 restricted rental 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 thirty (30) years.

- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller in the Cumberland County Clerk's Office. A copy of the filed document shall be provided to the administrative agent within thirty (30) days of the receipt of a certificate of occupancy.

- C. 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.

§300-88.8 Price Restrictions for Rental Units and Leases

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

- 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 five (5) percent 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.

§300-88.9 Tenant Income Eligibility

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

- (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to thirty (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 fifty (50) percent of median income.
- (3) Moderate-income rental units shall be reserved for households with a gross household income less than eighty (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, low-income or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five (35) percent, or forty (40) percent 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 (1) or more of the following circumstances exists:

- (1) The household currently pays more than thirty-five (35) percent, or forty (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 thirty-five (35) percent, or forty (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;
- (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 B(1) through (5) above with the administrative agent, who shall counsel the household on budgeting.

§300-88.10 Administration

A. The position of Municipal Housing Liaison (MHL) for the City of Vineland has been established. City Council shall be responsible for appointment of the MHL by means of a resolution.

(1) The Municipal Housing Liaison must be either a full-time or part-time employee of the City of Vineland.

(2) The person appointed as the Municipal Housing Liaison must be reported to COAH for approval.

(3) The Municipal Housing Liaison must meet all COAH requirements for qualifications, including initial and periodic training.

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

(a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, administrative agents and interested households;

(b) The implementation of the Affirmative Marketing Plan and affordability controls;

(c) When applicable, supervising any contracting administrative agent;

(d) Monitoring the status of all restricted units in the City of Vineland's Fair Share Plan;

- (e) Compiling, verifying and submitting annual reports as required by COAH;
 - (f) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- B. The City of Vineland shall designate by resolution of City Council, subject to the approval of COAH, one or more administrative agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- C. An Operating Manual shall be provided by the administrative agent(s) to be adopted by resolution of the City Council and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the City Clerk's Office and in the office(s) of the administrative agent(s).
- D. The administrative agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
- (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (2) Affirmative Marketing;
 - (3) Household Certification;
 - (4) Affordability Controls;
 - (5) Records retention;
 - (6) Resale and re-rental;
 - (7) Processing requests from unit owners;

- (8) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the City; and
- (9) The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§300-88.11 Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the City shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the City may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
 - (1) The City may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed ninety (90) days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Vineland's Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- (c) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- (2) The City may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the City, 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 City, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the City 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 City 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 City 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 City for the owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the owner shall make a claim with the City for such. Failure of the owner to claim such balance within the two (2) year period shall automatically result in a forfeiture of such balance to the City. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the City, whether such balance shall be paid to the owner or forfeited to the City.
- E. Foreclosure by the City due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the City may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the City shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the City, 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.

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

§300-88.12 Appeals

- A. Appeals from all decisions of an administrative agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.