

Understanding UHAC

A Guide to the Uniform Housing
Affordability Controls for Administrators
of Affordable Housing

N.J.A.C. 5:80-26.1 et seq.





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Foreword

This manual serves as a guide to the implementation of the Uniform Housing Affordability Controls (UHAC) as adopted on December 15, 2025. It applies to affordable housing units receiving credit under the New Jersey Fair Housing Act (FHA) – also known as the Mount Laurel doctrine – and those units financed by certain New Jersey Department of Community Affairs (DCA), New Jersey Housing and Mortgage Finance Agency (NJHMFA), and New Jersey Economic Development Authority (EDA) programs. This guide elucidates the roles, responsibilities, and procedures that must be strictly followed to adhere to the regulations established by UHAC (N.J.A.C. 5:80-26.1 et seq.) and the FHA. The guide also identifies provisions that offer municipalities flexibility. In any such case, the procedures municipalities adopt should be formalized in the municipality’s Operating Manual and made part of the agreement between a municipality and its administrative agent.

Understanding UHAC is offered as an informal guidance document. It is not a governing document like the regulations and statutes described herein. When in doubt, always follow the governing statute and regulations, and seek official state support or legal advice if you have any questions pertinent to your municipality’s unique circumstances.

Overview

Understanding UHAC is intended to supplement the Uniform Housing Affordability Controls (UHAC) (N.J.A.C. 5:80-26.1 et seq.), as adopted on December 15, 2025 by the New Jersey Housing and Mortgage Finance Agency (NJHMFA). This manual provides guidance for practitioners tasked with implementing UHAC. Its objective is to help affordable housing providers – including municipalities, municipal housing liaisons, administrative agents, developers, affordable housing sponsors, owners, property managers, and landlords – efficiently manage affordable housing units (sometimes referred to as “restricted units”) in accordance with UHAC. This manual also references model documents for administrative agents, as well as all UHAC appendices. Please visit the NJHMFA UHAC website to access all supplemental documents.

Affordable Housing History

New Jersey’s affordable housing framework is the product of decades of legal precedent, legislation, and State-local collaboration. It is guided by a constitutional principle unique to New Jersey that every municipality has an obligation to provide adequate opportunity for the development of affordable housing for low- and moderate-income households. This principle, known as the Mount Laurel Doctrine, was established by the New Jersey Supreme Court in *Southern Burlington County NAACP v. Township of Mount Laurel* (“Mount Laurel I”) and reaffirmed and expanded in *Mount Laurel II, III, and IV*. The Mount Laurel Doctrine shapes local zoning, the structure of State programs, State resource allocations, and administrative procedures at the State and local level in an effort to ensure that affordable housing opportunities are available across all of New Jersey’s communities.

The New Jersey Fair Housing Act (FHA) implements the Mount Laurel Doctrine by establishing administrative processes that dictate the creation and administration of affordable housing units, ensuring compliance with the Mount Laurel Doctrine. The FHA authorizes NJHMFA to promulgate rules governing the administration of affordable units, known as UHAC. UHAC translates broad constitutional and statutory obligations into concrete administrative requirements for the construction or rehabilitation, marketing, occupancy, and long-term regulation of affordable units created under the FHA. Additionally, housing units may be subject to UHAC if they are created under certain Department of Community Affairs (DCA), Economic Development Authority (EDA), or NJHMFA programs or are situated within municipalities that are exempt from compliance with UHAC, but voluntarily choose to require such compliance for affordable units within their jurisdiction.

Applicability of UHAC Regulations

Units Seeking Affordable Housing Credits

It is vital for anyone involved in the administration of affordable housing units (or “restricted units”) in the State to have a clear understanding of when UHAC applies. The first consideration is whether the units are receiving affordable housing credits in a municipal Fair Share Plan. As a general rule, all units receiving affordable housing credit must meet UHAC requirements, regardless of the units’

funding source, except for units explicitly exempted by N.J.A.C. 5:80-26.1. The table below provides a list of units subject to and exempt from UHAC.

Table 1

Units Subject to UHAC	Units Exempt from UHAC
Units receiving credit towards a municipality’s affordable housing obligation under Round One, Two, Three, or Four or later (except those whose financing make them explicitly exempt)	Units created with Low Income Housing Tax Credits (LIHTC) follow the QAP rather than UHAC although newly constructed units are subject to affirmative marketing and random selection provisions
Units created with Affordable Housing Trust Fund monies from DCA (formerly the Neighborhood Preservation Balanced Housing Program)	Units created with Balanced Housing Funds through NJHMFA’s Home Express Program
Units created with federal HOME Investment Partnerships monies, 24 CFR Part 92, from DCA	Units created with federal Home Investment Partnerships monies, 24 CFR Part 92, from HUD (HOME)
Units created with UHORP, MONI, or CHOICE monies from NJHMFA	Units created with HUD Section 202 Supportive Housing for the Elderly Program monies, 24 CFR Part 891
	Units created with HUD Section 811 Supportive Housing for Persons with Disabilities Program monies, 24 CFR Part 891
	Units created with HUD HOPE IV Program monies
	Units created with Federal Home Loan Bank Affordable Housing Program monies, 12 CFR Part 1291
	Units created with National Housing Trust Fund Program monies, 24 CFR Part 93
	Transitional housing units ¹
	Housing units that do not meet any of the criteria listed under the “Units Subject to UHAC” column

¹ P.L. 2024, c.2 amends Section 4 of P.L. 1985, c.222, N.J.S.A. 52:27D-304aa to provide the following definition: “Transitional housing’ means temporary housing that: includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; is licensed by DCA; and allows households to remain for a minimum of six months.”

Units Receiving Affordable Housing Credits for Rounds One, Two, and/or Three

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to Round Four affordable housing obligations, including any unit that:

- Received substantive certification from COAH;
- Is part of a Round Three settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development;
- Is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025; or
- Otherwise addresses a municipality’s fair share obligation from a round prior to Round Four affordable housing obligations.

A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) is not a prior round unit unless:

- It is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for Round Four affordable housing obligations, whichever occurs sooner; and
- Its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

For all prior round units, administrative agents should utilize the control periods established in the governing deed restrictions. Upon extension of affordability controls on units originally created under the Rounds One, Two, or Three on or after the December 2025 adoption of amended UHAC, administrative agents should utilize the control periods and documents in amended UHAC if the units will be credited for Round Four.

Units Seeking Affordable Housing Credits for Round Four and Beyond

Unless explicitly exempted, UHAC regulations apply to affordable housing units “regardless of the date on which the units were created” (N.J.A.C. 5:80-26.1.) Table 2 lists the sections in N.J.A.C. 5:80-26.1 et seq. that are not uniformly applicable to existing and newly created units.

Units Not Seeking Affordable Housing Credits

If a municipality is not seeking affordable housing credit for a unit, then it is important to identify the project’s financing sources to determine whether UHAC applies. UHAC does not apply unless a unit is subject to a municipal ordinance that applies UHAC in full or in part. Specifically, before any prices are set, rents are established, or marketing begins, administrative agents and developers should meet with the municipality to determine if the project was financed by any State, Federal, or private

subsidies. Private subsidies may include, but are not limited to, inclusionary developments (affordable units subsidized by market rate units) or projects with subsidy funded by non-governmental entities, such as foundations. Specifically, non-affordable housing credit units that use any of the funding sources on the left side on Table 1 or are built under the jurisdiction of a municipal ordinance that applies UHAC regulations to affordable units must adhere to UHAC.

Applicability of Updated Rules to New and Existing Units Subject to UHAC

Table 2

UHAC Section	Applicable to New Units	Applicable to Existing Units
5:80-26.4 Affordability average; bedroom distribution	Yes	No
5:80-26.5 Occupancy standards	Yes	Partially
5:80-26.5(a)	Yes	No
5:80-26.5(b)	Yes	Yes
5:80-26.6 Control periods for ownership units	Yes	Partially
26.6(a)	Yes	Acknowledges that existing deed restrictions govern current control periods
26.6(h)	Yes	Acknowledges that existing deed restriction extension procedures govern extension but requires newly extended deed-restrictions reflect Round Four rules.
26.6(m)	Yes	States that, at the end of the deed-restriction currently in effect, any extension of affordability controls must use updated restrictive instruments and be in accordance with the updated rules
Rest of 26.6	Yes	Not until the current deed-restriction ends and the unit is extended as a Round Four unit
5:80-26.12 Control periods for rental units	Yes	Partially

26.12(b)	Yes	Existing units’ control periods began upon occupancy, while new units’ control periods will begin upon Certificate of Occupancy issuance
Rest of 26.12	No	Yes
5:80-26.13 Restrictions on rents	Yes	Partially
26.13(c)1-2	Yes	Yes, but existing units may implement rule changes to non-rental fee rules at the later of December 20, 2025, the end of the occupant’s current lease term, or the date the current occupant vacates the unit
Rest of 26.13	Yes	Yes

Roles and Responsibilities

Each municipality is critical to the successful ongoing compliance and monitoring of affordable housing units within its jurisdiction. Municipalities undertake their compliance and monitoring roles through their municipal housing liaison and administrative agent. Each municipality has the flexibility to delegate certain responsibilities related to the administration of affordable units. While a municipality may delegate many tasks, the municipality is ultimately responsible for ensuring that affordability controls are established and maintained on restricted units, and that all activities are completed in accordance with all applicable rules. This includes seeking legal enforcement of Declarations of Covenants, Conditions and Restrictions, and Deed Restrictions as necessary.

Municipal Housing Liaison

The municipal housing liaison is responsible for the oversight and coordination of all municipal activities related to the creation, preservation, and administration of affordable housing programs, affordable units, and reporting. The municipal housing liaison may perform all administrative functions for affordable housing throughout the municipality or may oversee a contract with an administrative agent approved by DCA, as applicable, to perform these functions. The municipal housing liaison must be a paid employee or an appointed representative of the municipality.

DCA’s Division of Local Planning Services (LPS) conducts monitoring of municipal affordable housing trust funds. The municipal housing liaison, or a designee, is tasked with submitting municipal monitoring information certifications to LPS. Municipal housing liaison responsibilities are detailed in DCA’s rules at N.J.A.C. 5:99-6.

Responsibilities of the Municipal Housing Liaison

The municipal housing liaison is responsible for the following:

- Serving as the municipality’s primary point of contact for all inquiries from the State, affordable housing providers, administrative agents, and interested households;
- Overseeing the monitoring of and reporting on the status of all proposed and completed affordable housing programs and affordable units in the municipality’s fair share plan;
- Overseeing and monitoring administrative agents within their municipality’s jurisdiction to ensure compliance with UHAC;
- Ensuring that an administrative agent is assigned to administer the sales, rentals, re-sales, and re-rentals of all deed-restricted affordable units in the municipality at all times;
- Verifying, certifying, and providing monitoring and reporting information within the Affordable Housing Monitoring System (AHMS) at such time and in such form as LPS requires;
- Listing, on the municipal website, contact information for the administrative agent for each completed project with an affordable component within the municipality;
- Overseeing the coordination of meetings with affordable housing providers, developers, municipal officials, and administrative agents, as applicable; and
- Where applicable, providing to an administrative agent a copy of the adopted municipal operating manual(s), housing element and fair share plan, and ordinances relating to the creation and administration of the municipality’s affordable housing programs and/or affordable units.

Administrative Agent

The administrative agent administers the affordable units within a given municipality. The administrative agent may be the municipal housing liaison, another municipal employee, or someone else designated for a particular affordable unit or grouping of affordable units. Administrative agent responsibilities and training requirements are detailed in DCA’s rules at N.J.A.C. 5:99-7.

The administrative agent is primarily responsible for ensuring that the affordable units under administration are sold or rented only to very-low-, low-, and moderate-income households. The administrative agent is also in charge of creating and publishing an operating manual that establishes procedures for administering affordability controls, including procedures for long-term control of affordable units. In addition, the administrative agent ensures the municipality properly enforces covenants and releases affordable units at the end of applicable control periods. In certain circumstances this responsibility may include granting waivers from the income qualification requirement, particularly when a lack of income-qualified applicants persists. The administrative agent must also execute the affirmative marketing and random selection process.

Who Can Serve as an Administrative Agent?

Municipalities have flexibility in how they fill the role of administrative agent. One or more of the following approaches can be used to fulfill the administrative agent's responsibilities, so long as the selected party has fulfilled the education and training requirements established at N.J.A.C. 5:99:

- The municipality (through a designated employee, department, board, committee, etc.) may serve as the administrative agent for some, or all, of the affordable units. The municipal housing liaison can also serve as an administrative agent.
- The municipality can directly contract with a consultant to administer all or some of the affordable units in the municipality.
- The municipality is also permitted to contract with the developer, affordable housing sponsor, owner of affordable units, or NJHMFA's Housing Affordability Service (HAS) to perform administrative agent functions.

Responsibilities of the Administrative Agent

The administrative agent is responsible for the following:

- Conducting an outreach process to ensure affirmative marketing of affordable housing units consistent with the municipal Affirmative Fair Marketing Plan, which will begin with posting listings on the New Jersey Housing Resource Center (HRC);
- Collecting applications and maintain a pool of interested households;
- Soliciting, scheduling, conducting, and following up on applications and/or interviews with interested households;
- Obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very-low-, low-, or moderate-income household;
- Providing written notification to each applicant as to the determination of eligibility or non-eligibility for affordable housing;
- Employing a random selection process to select households from the pool of applicants;
- Furnishing appropriate forms of deed restrictions and mortgages to attorneys or closing agents for recording at the time of conveyance of title for each affordable unit;
- Creating and maintaining a complete file for each restricted unit for its control period, including recorded deed restrictions, recorded recapture mortgages and notes (as applicable), household certification documents, and documentation related to compliance, transfers, refinances, capital improvement requests, foreclosure or enforcement actions, and other events affecting the unit's affordability controls;
- Instituting and maintaining an effective means of communicating information, as applicable, between owners of affordable units, the municipal housing liaison, and the administrative agent to ensure timely notice of affordable unit availability for resale or re-rental;
- Sending annual mailings to owners in compliance with N.J.A.C. 5:80-26.19(d)4;

- Reviewing and approving requests from owners of affordable units who wish to take out home equity loans or refinance during the terms of their ownership.
- Reviewing and approving requests to increase the maximum sale prices from owners of affordable units who wish to make capital improvements, as governed by N.J.A.C. 5:80-26.10, that would affect the selling prices of their units;
- Processing requests and making determinations on requests by owners of affordable units related to demonstrated hardship, including requests to temporarily lease ownership units, where permitted under the regulations and subject to prior written approval by the administrative agent, pursuant to N.J.A.C. 5:80-26.8(a) and 5:80-26.19(d)4;
- Communicating with lenders and municipalities regarding foreclosures;
- Ensuring the issuance of continuing certificates of occupancy or certified statements from municipal building inspectors, as applicable;
- Notifying the municipality of an owner's intent to sell a restricted unit;
- Ensuring that the removal of deed restrictions and cancellation of mortgages are effectuated and properly filed with the appropriate county's register of deeds or clerk's office after the termination of the affordability controls for each affordable unit;
- Exercising appropriate authority to discharge and release any or all instruments, as set forth in the UHAC appendices establishing affordability controls;
- Providing annual reports, including a detailed description of completed units and any other information necessary for the municipality to produce its status report to the municipal housing liaison and LPS prior to February 15 of each calendar year; and
- Calculating rents or sale prices for affordable units, including initial pricing, resales, and re-rentals, in accordance with the regulations.

The Operating Manual

It is recommended that each municipality adopt a uniform Operating Manual for all affordable units within the municipality. An Operating Manual should set forth the standards that will be used by all administrative agents of affordable units within a municipality. By standardizing many of the minimum criteria at a municipal level, the municipality will be able to effectively regiment the experience of a household in its pursuit of affordable housing. This may prove to be especially valuable for the orderly administration of affordable housing units in municipalities that have multiple administrative agents representing a variety of affordable housing choices.

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

- Affirmative marketing.
- Random selection of interested applicants for available units.
- Standards for reviewing applicant household eligibility and certifying applicant households.
- Procedures for establishing and maintaining long-term controls of affordable units.
- Enforcement of restrictions placed on affordable units.

- Releasing affordable units at the conclusion of their control period.
- Approach to determining fair market value to determine the Recapture Mortgage Note amount.

Working Together to Create and Administer Affordable Units

For new projects, it is important for the municipal housing liaison and the administrative agent to meet with the developers and affordable housing sponsors to review applicable regulations at the earliest point of contact in the processing of the project (for example, before application is made to the local Planning Board or Zoning Board) and to secure written acknowledgement of the requirement that no restricted unit may be offered to any person other than a household certified by the administrative agent. At this time, it should be determined which parties are responsible for which tasks.

The initial sale prices, bedroom distribution, affordability average, low- and moderate-income split of units, and the very-low-income set-aside (rental projects) should also be reviewed. It is recommended that the municipal housing liaison review the affordable housing provisions of any Master Deed and Public Offering for consistency with DCA and UHAC regulations before they are recorded and submitted to DCA for approval.

The municipal housing liaison serves as an initial point of contact for unsolicited calls to the municipality about affordable housing and refers the caller to the appropriate administrative agent.

The administrative agent implements the Affirmative Marketing Plan. A municipality may adopt an ordinance, or incorporate language as part of a Planning Board or Zoning Board approval, that delegates to the developer or affordable housing sponsor the responsibility for newspaper, broadcast, or other affirmative marketing strategies.

The administrative agent, the developer, or the affordable housing sponsor will accept pre-applications for affordable units [or for an affordable unit] for a specified period of time. At the end of this time period, all applications will go to the administrative agent where they will be randomly selected, through a lottery, to create a pool of applicants.

Determining Bedroom Distributions and Pricing Sale Prices and Rent

Items of Note for the Administrator

- Early coordination is critical. Bedroom distribution, income distribution, and affordability averages must be reviewed with the developer *before* pricing calculations begin, as errors can affect Fair Share credit eligibility. A planner may need to be consulted at this point to ensure coordination with the Fair Share Plan.
- Bedroom and income distribution rules apply at both the development and aggregate levels. Requirements differ for family, age-restricted, supportive housing, and assisted living units, and miscalculations may result in loss of credits.
- Pricing is based on model household sizes, not the number of occupants. Household-size assumptions are used solely to establish initial prices and rents may not be used for unit matching.
- Ownership and rental developments are governed by different affordability caps and averages. Administrators must verify that pricing, affordability averages, and maximum prices or rents comply with the applicable thresholds for each tenure type.
- Resale price adjustments and capital improvements are constrained. Only specified and pre-approved improvements and documented costs may affect resale pricing or recapture calculations, and all depreciation rules must be applied consistently.
- Rent increases are regulated and time limited. Increases must follow CPI-based limits, occur no more than once per year, and comply with notice and approval requirements. Certain federally regulated projects are subject to separate rules.
- These regulations do not apply to assisted living residences or units funded with NJHMFA's UHORP, MONI, or CHOICE funds.

Development Considerations and Compliance Issues

UHAC requires that developments containing affordable units meet certain bedroom distribution and pricing requirements for those restricted units. These requirements exist at both the development level and municipality level and compliance should be reviewed prior to finalizing plans for any new development. These determinations should be addressed at the first meeting between the municipal housing liaison, administrative agent, and developer/affordable housing sponsor because the determinations will affect municipal compliance and project financial viability. The following is a summary of the requirements for ownership and rental projects. It is important to note that assisted living residences are not always subject to the bedroom distribution and affordability average requirements. They must maintain compliance with applicable NJHMFA policies, guidelines, and regulations. However, they must comply with UHAC regulations in order for the units to be eligible for credits in a certified Fair Share Plan.

Bedroom Distribution

UHAC regulations govern the distribution of units of different bedroom counts within affordable ownership and rental developments. The regulations establish that, within each affordable development:

- The number of bedrooms must be at least twice the number of units;
- Two-bedroom and/or three-bedroom units compose at least half of all units;
- Up to 20 percent of all units, rounded up or down to the nearest whole number, are efficiency or one-bedroom units;
- At least 30 percent of all units, rounded up or down to the nearest whole number, are two-bedroom units;
- At least 20 percent of all units, rounded up or down to the nearest whole number, are three-bedroom units; and
- The rest of the units may be allocated at the discretion of the developer.

Affordable age-restricted and supportive housing units have a separate bedroom distribution standard. The number of bedrooms within the restricted units must, at a minimum, equal the number of restricted units. For example, the standard may be met by creating a two-bedroom unit for each efficiency unit. Supportive housing units may be exempt from the baseline UHAC standard if they are part of a sponsoring program that requires a different bedroom arrangement. In all age-restricted and supportive affordable developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must compose at least five percent of those restricted units. There is no exemption to this rule.

Income Distribution

In each affordable development, the following income distribution requirements must be independently satisfied by the restricted units that are age-restricted, the restricted units that are supportive housing, and the restricted units that are neither age-restricted nor supportive housing as well as by all of the restricted units in the development, considered in the aggregate:

- At least 50 percent of all restricted units are low-income or very-low-income units;
- At least 50 percent of all restricted efficiency or one-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
- At least 50 percent of all restricted two-bedroom units, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units;
- At least 50 percent of all restricted three-bedroom units are low-income units or very-low-income units;
- At least 50 percent of all restricted units with four or more bedrooms, rounded up or down to the nearest whole number in either direction, are low-income units or very-low-income units; and

- Any very-low-income units are distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count. For example, if half of the restricted units are two-bedroom units, then half of the very-low-income units should be two-bedroom units.

When determining bonus credits, the minimum number of three-bedroom units required is determined by taking 20 percent of the total number of family housing units in the municipal fair share plan and housing element, not by summing up the three-bedroom-unit requirements calculated for each affordable development.

Failure to properly calculate or otherwise comply with the bedroom distribution requirement may result in the loss of credits.

Pricing by Household Size

Initial sale prices and rents are based on targeted “model” household sizes for each size home, as determined by the number of bedrooms. With the exception of assisted living facilities, initial sale prices and rents must adhere to the following rules:

- An efficiency unit is affordable to a one-person household;
- A one-bedroom unit is affordable to a one-and-one-half-person household;
- A two-bedroom unit is affordable to a three-person household;
- A three-bedroom unit is affordable to a four-and-one-half person household; and
- A four-bedroom unit is affordable to a six-person household.

Size of Unit	Household Size Used to Determine Max Sale/Rent
Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

Only use these rules for setting initial sale prices and rents. They are not guidelines for matching household sizes with unit sizes. See Chapter 4 for information on matching household sizes with unit sizes. For age-restricted units and assisted living facilities, a two-bedroom unit is affordable to a two-person household or to two one-person households

Pricing Affordable Ownership Units

Determining Maximum Initial Sale Price

The maximum sale price for an ownership unit is determined by first calculating the amount that an appropriately sized household can afford for housing expenses, defined as 30 percent of monthly income, at various income levels. Several related expenses (homeowner insurance, private mortgage insurance (PMI), association fees and taxes) must then be subtracted from the household's maximum monthly contribution toward housing expenses to arrive at the maximum monthly mortgage payment. The calculated mortgage amount, a five percent down payment, and the current lending rate must be used to arrive at the maximum sale price. NJHMFA has provided a pricing calculator on its website.

Additional Regulations for an Ownership Development

In addition to the UHAC regulations set forth in the previous subsection entitled Development Considerations and Compliance Issues, ownership developments must also comply with the following:

- Affordability Average. Each affordable development must achieve an affordability average of no more than 55 percent of the regional median income for restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom count, and low-income ownership units must be available for at least two different prices for each bedroom count.
- Maximum Initial Sale Price. The maximum initial sale price of restricted ownership units within each affordable development will be affordable to households earning no more than 70 percent of the regional median income.
- Condominium/Homeowner Association Fees. UHAC requires that owners of affordable units and owners of market-rate units be charged identical condominium or homeowner association fees and/or special assessments. Condominium or homeowner association fees and special assessments charged to affordable units will be based on the common interest percentage and the full build-out budget. However, affordable housing developments subject to a municipal ordinance adopted before December 20, 2004 may be exempt from this regulation if the ordinance establishes differing association fees or special assessments for market-rate and affordable unit owners.

Determining Resale Prices

Calculating the maximum resale price (MRP) for an ownership unit involves applying the annual income limit percentage increase corresponding with each calendar year since the seller bought the house. No increase is permitted during the balance of the calendar year immediately after the sale. NJHMFA has created a resale calculator to assist with this calculation. The calculator is available on NJHMFA's website. Input the county, current owner's purchase price for the home, and the date of

purchase to generate the MRP for the home. Applicable annual percentage increases permitted by NJHMFA will also be displayed. Depending on the size of the user’s computer monitor, it may be necessary to “scroll down” to view this information.

A maximum refinancing amount calculator is also available on the resale calculator spreadsheet. Any refinancing requires administrative approval. Upon determining a maximum resale or refinance amount, the calculator sheet should be printed and placed in the appropriate property file(s).

Requests for Recalculation in Maximum Sale Price

Under limited circumstances, the seller of an ownership unit may ask the administrative agent to recalculate a sale price for their home that exceeds the maximum sale price due to the extent and nature of improvements and upgrades to the property during the seller’s tenure of ownership. UHAC states that only those improvements “that make the unit suitable for a larger household” can increase the calculated maximum sale price. Such improvements may include, for example, an extra bedroom and extra bathroom. However, the maximum sale price of an improved housing unit may not exceed the limits of affordability for the larger household.

The purchase of an air conditioning system – installed after the initial sale and not included in the initial sale price – may be considered in the sale price, provided 10-percent, straight-line depreciation is applied to the purchase price from the time of installation.

Options or upgrades purchased at the time of the initial sale are not considered part of the initial sale price and therefore do not affect the value or sale price at the time of resale. Unless otherwise approved by the administrative agent, the purchase of any property or equipment other than an air conditioning system may not be considered in calculating a unit’s resale price.

Capital improvements pre-approved, in writing, by the administrative agent for replacements of existing items or improvement to the property – for example, the replacement of a leaky roof, installation of a solar energy system owned by the homeowner, installation of energy-efficient windows, or replacement of broken appliances with ENERGY STAR-labeled products – will not cause the maximum price to be recalculated, but will instead be factored into calculating reductions to the recapture amount and adjustments to the maximum sale price. Capital improvements are subject to 10-year, straight-line depreciation.

Pricing Affordable Rental Units

Determining the initial rent on a new affordable housing project is very similar to the process of determining a maximum sale price with one exception – a utility allowance for renter-paid utilities is subtracted from the household’s maximum monthly payment toward housing expenses, defined as 30 percent of monthly income. The UHAC calculator has been created by NJHMFA to calculate initial rents and is available on NJHMFA’s website for administrative agents. An explanation of how to use the calculator is included later in this section.

Additional Regulations for a Rental Development

In addition to the regulations covered earlier in the subsection Development Considerations and Compliance Issues, rental projects must also comply with the following UHAC regulations:

- Split Between Low-/Very-Low and Moderate-Income Rental Units. At least 50 percent of the affordable units within each bedroom count must be low-income or very-low-income units. At least 13 percent of the affordable units in a municipality must be affordable to very-low-income households, with at least half of such units made available for very-low-income families with children. The 13 percent requirement for very-low-income units is required at the municipality-level, unless the municipality specifically requires it also be applied at the property-level. The remainder of the affordable units must be affordable to moderate-income households.
- Affordability Average. The average rent for all affordable units cannot exceed 52 percent of the median income. At least one rent for each bedroom count must be offered for very-low-income, low-income, and moderate-income units.
- Maximum Rent. The maximum rent of restricted rental units within each affordable development must be affordable to households earning no more than 60 percent of the regional median income. If the development has more than 13 percent of very-low-income units, the development may include a unit priced at 70 percent of regional-median income for each very-low-income unit supplied above the 13 percent very-low-income requirement.

Determining Rent Increases

Annual rent increases are permitted in affordable units governed by UHAC. Rent increases are permitted at the anniversary of tenancy, following proper notice provided to the occupant household, to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled “Housing in Northeast urban, all urban consumers, not seasonally adjusted,” available at <https://fred.stlouisfed.org/series/CUUR0100SAH>. The maximum rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. The Agency will publish the applicable annual CPI-U percentage.

Property managers or landlords who have charged less than the permissible increase may charge the maximum allowable rent to the next tenant if approved by the administrative agent. The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits. Rents may not be increased more than once a year, may not be increased by more than one increment at a time, and may not be increased at the time of new occupancy if this occurs less than one year from the ending date of the last rental. No additional fees, operating costs, or charges may be added to the approved rent without the express written approval of the administrative agent.

Using the UHAC Calculator

The UHAC calculator is a handy tool for administrators of affordable housing. It can be found on NJHMFA's UHAC website: <https://www.nj.gov/dca/hmfa/about/uhac/>. To help administrative agents understand the resource, NJHMFA has created a series of short tutorials on using the UHAC calculator. There are five brief videos that provide an introduction to the UHAC calculator, including the Distributions, Rentals, For Sale, and Resale calculator tabs. Links to the videos are available at:

- **UHAC Calculator Tutorial – Intro:** <https://www.youtube.com/watch?v=d7gGEoxuXI8>
- **UHAC Calculator Tutorial – Distributions:**
<https://www.youtube.com/watch?v=AaO6MERttr0>
- **UHAC Calculator Tutorial – Rentals:** <https://www.youtube.com/watch?v=KZLi1PcAIeE>
- **UHAC Calculator Tutorial – For Sale:**
<https://www.youtube.com/watch?v=STW2YGxw8As>
- **UHAC Calculator Tutorial – Resale:** <https://www.youtube.com/watch?v=txUtKvFE-78>

Should the above links no longer be active, please refer to NJHMFA's UHAC website for successor videos or tools that have been made available: <https://www.nj.gov/dca/hmfa/about/uhac/>.

Affirmative Marketing

Affirmative marketing is a core administrative obligation under UHAC. Administrative agents are responsible for implementing, documenting, and maintaining affirmative marketing activities designed to ensure that affordable housing opportunities reach households that are least likely to apply, consistent with State and federal fair housing requirements.

Items of Note for the Administrator

- Affirmative marketing is mandatory. Administrative agents must implement and document affirmative marketing activities to ensure affordable housing opportunities reach households least likely to apply, consistent with State and federal fair housing requirements.
- A municipal affirmative marketing plan is required. Each municipality must adopt a plan that applies to all restricted units and identifies the targeted housing region, populations least likely to apply, outreach strategies, media methods, and documentation procedures.
- While a municipality may designate a municipal staff person or administrative agent to carry out affirmative marketing, the municipality remains legally responsible for compliance.
- Multiple outreach methods must be employed. Affirmative marketing must include posting on the Housing Resource Center (HRC), regional newspaper advertising, housing website listings, additional outreach strategies, and notification to Continuums of Care when supportive units are marketed.
- All advertisements must include the project information, unit characteristics, pricing, availability timing, random selection method, any permitted preferences, application fees, and clear contact and HRC information.

Required Regional Marketing Plan

Each municipality must adopt an affirmative marketing plan designed to attract buyers and/or renters of all majority and minority groups, which applies to all restricted units within the municipality. The plan must include:

- The housing region to be targeted;
- The populations least likely to apply for affordable housing within that region, including consideration of the preferences permitted under N.J.A.C. 5:80-26.17(k), namely: qualifying veteran households, qualifying households that reside or work in the housing region, and, subordinate to the regional preference, qualifying households that reside or work in New Jersey;
- The specific advertising and outreach strategies that will be used to reach those populations;
- The media outlets and advertising methods to be used, consistent with the requirements of UHAC at N.J.A.C. 5:80-26.16(e) and (f);
- Procedures for documenting affirmative marketing strategies undertaken and maintaining applicant lists, as required by UHAC at N.J.A.C. 5:80-26.16(b).

Media and Advertising Requirements

Affirmative marketing must include multiple outreach methods; it may not rely on a single advertising platform. At a minimum, marketing activities must include:

At a minimum marketing and outreach must include...
Posting on the HRC in compliance with the Housing Resource Center law, N.J.S.A. 52:27D-321.3 through 321.6.
Notification to the applicable Continuum of Care when special-needs rental units are being marketed.
At least one advertisement in <i>either</i> a regional print or digital newspaper.
Listing of the units on at least one housing-related website accessible to the general public.
Selection of two additional outreach strategies from the list identified in the affirmative marketing plan, subject to the following requirement: <ul style="list-style-type: none"> • If the newspaper advertisement is digital, at least one additional strategy must be non-digital; or • If the newspaper advertisement is print, at least one additional strategy must be digital.

Referral for Counseling Services

The administrative agent is responsible for providing housing counseling or referrals for counseling, as a part of the Affirmative Marketing Plan. Housing counseling will provide guidance on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. The administrative agent or municipality may refer an applicant to a HUD-certified housing counselor or another Division-approved experienced counseling entity.

The Affirmative Marketing Period

The affirmative marketing process consists of administrative agents selecting strategies and mediums from the adopted affirmative marketing plan and reporting the selections to the municipal housing liaison. After making selections from the plan, administrative agents begin the affirmative marketing process by posting the listing on the HRC. All strategies must be undertaken concurrently, with all of the selected strategies employed within a day or two of the listing.

The affirmative marketing process must begin at least four months prior to expected occupancy and may begin before construction commences. The affirmative marketing process must continue for at least 45 days following the initial listing on the HRC or for as long as applications are accepted, whichever is longer.

For for-sale units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold.

For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.

Applications must be accepted for at least 45 days following the initial advertisement on the HRC, except for the resale or sale of for-sale units, in which case, applications must be accepted for at least 30 days, if a waiting list does not exist. Additionally, random selection may not occur prior to 60 days following the initial HRC advertisement.

Supportive housing units, including group homes, must comply with the marketing and selection processes of their respective sponsoring programs, where applicable.

Developing an Advertisement

All advertisements for restricted units must comply with UHAC content requirements and applicable fair housing laws. Advertisements must be clear, accurate, and accessible.

Required Content

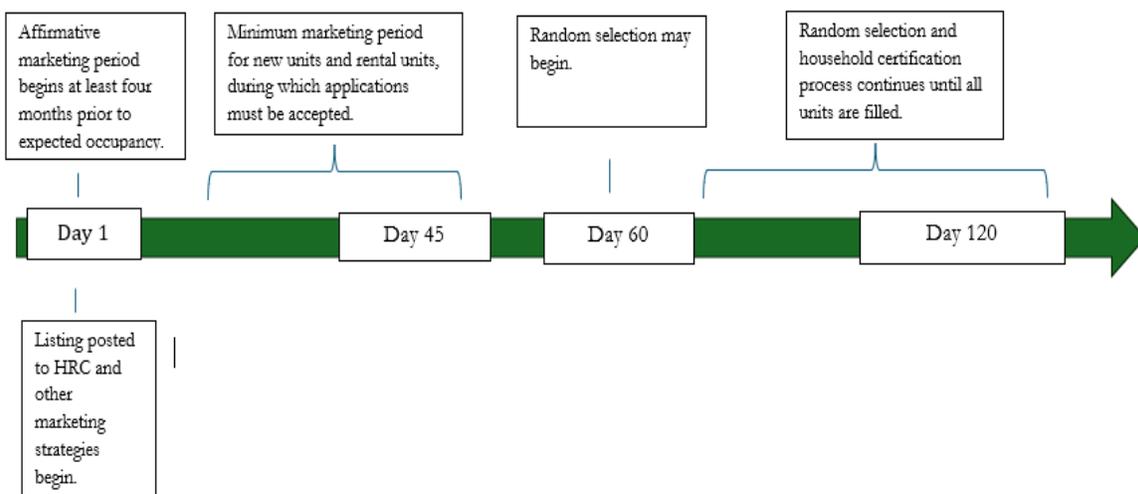
Each advertisement must include all of the following:

- The name and address of the project;
- The number of units, including the number of for-sale and/or rental units;
- The physical characteristics of affordable units, including the unit type, bedroom counts, total square footage, and accessibility features;
- The prices of for-sale units and/or the rental amounts of rental units;
- The expected date the affordable housing units will be available;
- A description of the random selection method that will be used to select occupants of affordable housing units;
- The population(s), if any, that will be given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k);
- Required application fees; and
- A phone number, email address, website address, and HRC information for the property.

If a digital newspaper ad has word/character limits the ad will be compliant if it links to another webpage that includes all of the required information. The ads must include information that will allow households to determine whether they are eligible based on household size, income level, and unit type (senior, supportive, or family).

Creating an Applicant Pool and Random Selection

Administrative agents may begin accepting applications once a unit’s availability has been posted on the HRC. Applications for that unit must be accepted for at least 45 days thereafter, except for the resale of a for-sale unit in which case applications must be accepted for no less than 30 days if a waiting list does not already exist. The applications accepted during this time period constitute the applicant pool for the available unit(s). All units, unless exempt under the rules (e.g., group homes), must be initially filled with applicants randomly selected from the applicant pool. Therefore, it is important that administrative agents establish pools with enough applicants to fill all units at initial lease-up and to fill units as they become available in the future. Refer to the timeline below for more details.



Items of Note for the Administrator

- All restricted units must be filled through random selection from an applicant pool, except where explicitly exempt under UHAC (e.g., group homes).
- Affirmative marketing must occur before random selection, and once an applicant pool is exhausted, a new affirmative marketing process is required to establish a new pool.
- Administrative agents must maintain complete and current applicant pool records, including documentation of applications, selections, removals, and status changes.
- Permissible filters and preferences are limited under UHAC and must be applied consistently; municipality-specific preferences are not permitted.
- Applicants must receive written notices, be provided required response periods, and be informed of eligibility determinations, referrals, and appeal rights in accordance with UHAC.

The Applicant Pool

Administrative agents must maintain an applicant pool that includes sufficient information about each applicant to enable informed evaluation of their applications. The following information must be collected about each applicant:

- Date and time the applicant submitted an application (Note: In cases of random selection, the applicant pool will not be sorted in a first-come, first-served basis and date and time is only used for recordkeeping purposes, not selection purposes);
- Name of the head of household;
- Number of persons in household. If the local random selection process only includes those household sizes that are appropriate for the available units, the administrative agent may wish to collect the age and sex of each household member;
- Unit size or bedroom count for which the household is eligible;
- Annual income level as reported by the applicant (very-low, low-, or moderate- income). It is not required that income be verified at this time;
- The need for an accessible unit or any accessible features;
- If a regional preference is permitted, whether or not the household currently lives or works in the host municipality's housing region; and
- If the development has a veterans' preference, veteran status.

The Initial Application Process

In order for households to be part of the selection process for a vacant unit, they must – at a minimum – be preliminarily determined income-eligible. This process can be accomplished with a preliminary application or pre-application that asks applicants about their income. A preliminary application should only request information such as: the applicant's current contact information, age, and relationship of all household members, annual income of all household members, and any other information necessary for categorizing the households in the pool of applicants. The preliminary application can be used to establish a pool for random selection. Applicants can apply via mail and online.

The pool of applicants established through the affirmative marketing process must be used to fill units. If the pool is exhausted, even for resales and re-rentals, then a new affirmative marketing round is required to create a fresh list.

The Application Process for an Available Unit

When a unit becomes available, the administrative agent will interview the applicant households and proceed with the income qualification process. Applicant households seeking for-sale units must obtain a mortgage pre-approval. The administrative agent must notify applicant households in writing of certification or denial within five-business days of the determination. Once certified, households

are further screened to match household size to bedroom count and determine whether they are interested in for-sale or rental units.

Certified households that are approved for a for-sale affordable housing unit will work with the administrative agent to secure a mortgage in a timely fashion and obtain homeownership counseling if required or desired. The administrative agent will prepare a Deed, the Recapture Mortgage and Note, and Appendix J and may choose to attend the closing for each unit. The recordation is the responsibility of the buyer's attorney or title company. Once all documents are filed, recorded, and returned to the administrative agent for inclusion in the file, the administrative agent will process a release of the original documents.

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

The certified household moves into the affordable ownership or rental unit.

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 will strive to:

- Ensure each bedroom is occupied by at least one person, except for age-restricted units.
- Provide a bedroom for every two adult occupants.
- With regard to occupants under the age of 18, accommodate the household's requested bedroom arrangement.
- Avoid placing a one-person household into a unit with more than one bedroom.

An applicant who is referred to an available unit must be given a minimum of five business days to accept or reject the administrative agent's offer.

Random Selection

The administrative agent will employ a random selection process when referring households to affordable units. The administrative agent may elect to conduct the random selection prior to or after households are certified for eligibility. If conducting the random selection following household certification, they will notify all applicants of their eligibility or ineligibility in advance of the random selection. Any or all of the following filters may be used to filter the applicant pool in conducting the random selection, including:

- Whether the household is seeking a for-sale unit, rental unit, or either;
- The minimum number of bedrooms the household qualifies for;

- Whether the household is seeking a very-low-income, low-income, or moderate-income unit;
- The unit type applicable to the households (that is, family, age-restricted, or supportive);
- Whether the household is seeking an accessible unit;
- For supportive housing applicants only, whether any member of the household belong to the eligible population; and
- The occupancy standards at N.J.A.C. 5:80-26.5(b).

Separate from filtering, three additional preferences may be established to prioritize units for certain populations. These preferences are:

1. A veterans' preference for eligible veterans who served in a time of war or other emergency, if such an agreement has been made between a developer and municipality. This preference applies exclusively to rental units and only applies to a maximum of 50 percent of the restricted units and must be approved by the planning board for the specific project;
2. A housing region preference for eligible households that live or work in the relevant housing region. Municipality-specific preferences are not allowed; and
3. Subordinate to the housing region preference, a preference for eligible households that live or work in New Jersey.

Below are two approaches to random selection: initial randomization and randomization after certification.

Initial Randomization

In initial randomization, applicants are randomized before selection, including before any permissible filters or preferences are applied.

- At least 60-days following the initial posting on the HRC, applications are selected one-by-one through random selection. If fewer applications are received than the number of available units, then all eligible households will be placed in a unit. Households should be informed of the date.
- A municipal representative should also be invited to attend the lottery.
- An applicant pool is created by compiling a list of all applications or pre-applications submitted since the initial posting on the HRC. The applicant pool is then randomized.
- The selection process should consist of working down the list of randomized applicants, in the order that emerged after randomization.
- To more efficiently match applicant households with available units, the administrative agent may apply the allowable filters and preferences, detailed above, to the randomized list. The administrative agent should note when and how filters will be utilized prior to filtering.
- After the administrative agent works down the randomized list, matching applicant households to available units based on unit type, household size, income-level, accessibility needs, etc., the matched applicant households are reviewed for income eligibility.

- Eligible households may be asked for additional documentation if only a pre-application was submitted. Otherwise, eligible households move onto household certification and, if certified, are referred to the unit. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information. Administrative agents must provide the eligibility determination within five (5) business days of making the determination.
- Upon being certified for and referred to a unit, applicant households have a minimum of five (5) business days to accept or reject the unit.
- If sufficient names remain in the pool to fill future resales and re-rentals, the applicant pool may be closed. Two years of turnover is a recommended standard.
- For future resales and re-rentals only, the administrative agent can keep the applicant pool open after the initial lottery. This procedure may only be followed if the administrative agent engages in ongoing monthly affirmative marketing efforts according to the approved Affirmative Marketing Plan to ensure outreach to the housing region.

Randomization After Certification

In a randomization after certification process, random selection is conducted when all households match the income and unit type. The process may be as follows:

- At least 60-days following the initial posting on the HRC, all applications are reviewed and households are certified.
- Certified households are placed into the pool for randomization. Ineligible households are informed of their ineligibility or given the opportunity to provide additional documentation. Administrative agents must provide the eligibility determination within five (5) business days of making the determination.
- Certified households are placed in the applicant pool and randomized. Administrative agents using this approach must certify all applicant households, so that a proper random selection can occur.
- When working down the randomized list matching certified households to units, administrative agents may apply the allowable filters and preferences to the randomized list of certified households.
- When the administrative agent matches a household with an appropriate unit, the administrative agent will refer the household to the unit. The administrative agent should request additional documentation if it has been more than 180 days since the initial certification.
- Upon certification for and referral to a unit, applicant households have a minimum of five (5) business days to accept or reject the unit.
- Applications are accepted on an ongoing basis. Certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

Determining Income Eligibility by Affordable Unit Category

Households' eligibility for an affordable unit category is determined using the household's income for the appropriate housing region and the housing category. Administrative agents should reference the regional income limits for the appropriate household size as published on NJHMFA's website.

- Very-low-income units are reserved for households earning less than or equal to 30 percent of median income.
- Low-income units are reserved for households earning 50 percent or less of median income.
- Moderate-income units are reserved for households earning less than 80 percent income.

Contacting Applicants

After a unit becomes available and the administrative agent has selected an applicant from the applicant pool based on the established random selection procedures, the administrative agent must contact the household in writing, inform the household that a unit is available, and attempt to schedule an interview with the household. If the applicant does not respond to the notification of an available unit within five (5) business days, or is not interested in the unit, the administrative agent may move to the next randomly selected applicant.

Updating the Applicant Pool

An applicant pool must be regularly updated. Regularly confirming the interest and preliminary eligibility of those in the applicant pool keeps the applicant pool current and will expedite the filling of vacancies. For example, an applicant's household composition may change, which may make the household eligible for a different unit size. Such updates increase the likelihood that households selected from the applicant pool will be eligible for and interested in occupancy and will be of the appropriate income and household size for a vacant unit. Periodic updating will also help ensure that the administrative agent has the correct information to contact the applicant should an appropriate unit becomes available.

This guide recommends that administrative agents periodically send verification emails or letters to everyone in the applicant pool, keeping copies of the letter in each applicant's file. Such correspondence generally request that the applicant send back a confirmation card or email or call the office to indicate their continued interest in being in the applicant pool. Mailings to verify interest may also state that the applicant will be removed from the applicant pool if there is no response within a certain period of time, for example, 60 days. Letters that come back as "return to sender" or "addressee unknown" may result in the applicant being removed from the applicant pool. Likewise, if the administrative agent receives no confirmation from the applicant, the administrative agent should note this in the applicant's file and may remove the applicant from the pool.

Record keeping is critical to maintaining the integrity of an applicant pool and ensuring compliance with all applicable fair housing and nondiscrimination laws.

Administrative agents must document:

- Any changes to the applicant pool.
- Any action taken with regard to the applicant pool.
- Any activity that occurs that affects a particular applicant.

The applicant pool should be maintained in such a way that someone reviewing it could find an applicant on the list and determine the applicant's precise and current status.

In addition to the documentation described above, administrative agents must retain the following:

- Current applications for all applicants whose status is active in the applicant pool;
- The application, the initial rejection notice, the applicant's reply to the notice, a copy of the administrative agent's final response to the applicant, and all documentation of the reason the applicant's name was removed from the applicant pool.

The Resale Process

The resale of a restricted unit must be processed through the administrative agent. Each owner must certify that they understand this requirement when they purchase the home.

Typically, the resale process begins when an owner inquires about the maximum resale price (MRP) of their unit. At that time, the administrative agent should provide the Seller with a "Notice of Intent to Sell" form, which should be returned to the administrative agent. The administrative agent will recalculate the maximum resale price for the unit to reflect eligible capital improvements made since the purchase of the unit, if applicable. The administrative agent uses their current applicant pool, which is based on a previous affirmative marketing process, or affirmatively markets the unit and conducts random selection if there is no current applicant pool. If the administrative agent maintains a pool of certified households, the first randomly selected eligible household whose household size matches the bedroom size of the available unit is contacted by the administrative agent inviting them to contact the buyer to view the unit. If the administrative agent maintains a pool of preliminarily eligible households, the first series of eligible households that match the bedroom size of the available unit are contacted with the opportunity and sent a request for more information including an application to complete and a list of required documentation.

Interested households should complete the application and are generally interviewed by the administrative agent. Interested eligible households are certified, and ineligible households are noticed in writing and removed from the applicant pool. Certified households should obtain a mortgage pre-approval based on the MRP. The first randomly selected interested certified household from the applicant pool is invited to view the unit and has a limited period of time in which to make an offer (five days is a recommended timeframe). A certified interested household makes an offer. The owner and the certified interested household (now Buyer) execute a "Contract of Sale." The administrative agent ensures that the Deed, Recapture Mortgage, and Recapture Mortgage Note form are submitted



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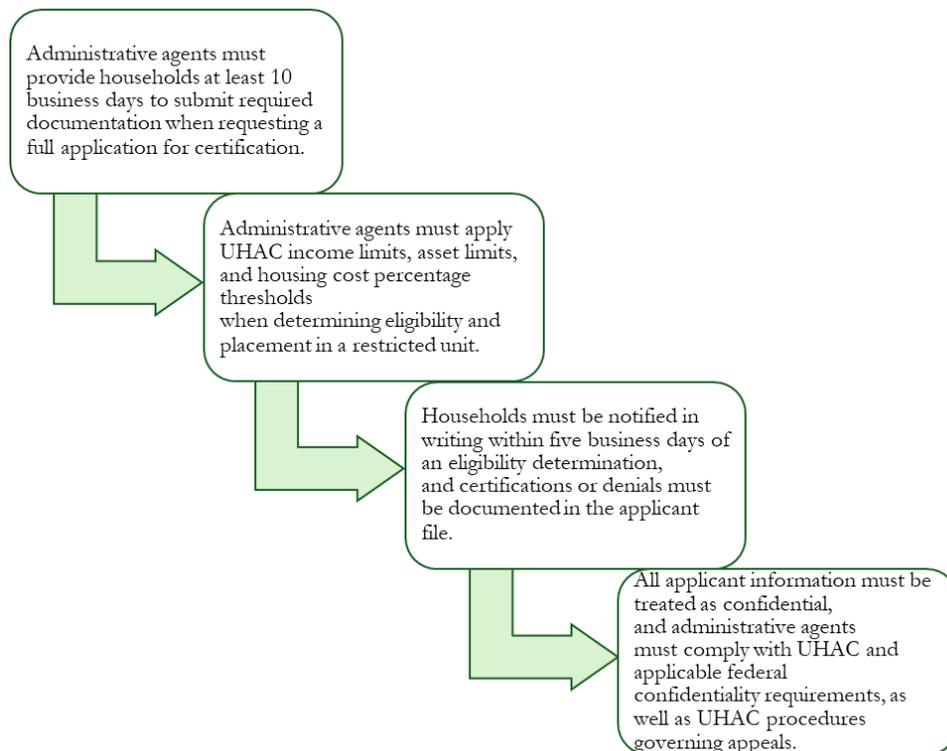
as part of the closing package to the attorney responsible for the closing or other closing agent. See the Legal Instruments, Control Periods, and Enforcement section for a further discussion.

Certifying Households

UHAC requires that before any household can purchase or lease a restricted unit, the administrative agent must certify the household by executing an income certification. Certifications are valid for 180 days, and those determinations are transferable between licensed administrative agents, DCA, and NJHMFA, as long as the certification remains valid. Household Certification involves the verification of two critical pieces of data: 1) household size and composition, and 2) total income and assets for all household members over 18 years of age.

Items of Note for the Administrator

- Administrative agents must allow households at least 10 business days to submit required documentation when requesting a full application for certification.
- Administrative agents must apply UHAC income limits, asset limits, and housing cost percentage thresholds when determining eligibility and placement in a restricted unit.
- Households must be notified in writing within five business days of an eligibility determination, and certifications or denials must be documented in the applicant file.
- All applicant information must be treated as confidential, and administrative agents must comply with UHAC and applicable federal confidentiality requirements, as well as UHAC procedures governing appeals. Refer to the table below for more details.



The Application for Certification

Whether the certification process begins after random selection and once the desired unit type becomes available or takes place prior to the applicant being placed in the applicant pool and before units are available does not affect the certification process itself. An applicant must complete an application in its entirety and provide the required supporting documentation. The administrative agent requesting completion of a full application for certification must allow the household at least 10 business days to produce the requested documentation.

A written application for certification should require the following information/documentation:

Section I – Household Composition for ALL Household Members Age 18 and Over

- Complete all affidavits (all affidavits require notarization).
- Copy of official Birth Certificate for ALL household members.
- Copy of Marriage Certificate (as applicable).
- Copy of Divorce Decree (as applicable).
- Copy of Social Security Card for ALL household members.
- Copy of Certificate of Naturalization, Permanent Resident Card (if applicable).
- Copy of Driver's license or government-issued photo ID for household members over age 18 (Passports may be accepted for age verification purposes only, consistent with HUD Occupancy Handbook Guidance).
- Verification of Custody of ALL minor children not claimed on Federal Tax Returns (if applicable).
- Verification of full-time student or apprenticeship status, if over age 18 and under age 26 (if applicable).

Section II – Income Verification for ALL Household Members Age 18 and Over

- Four to six consecutive pay stubs from all employers, not more than 120 days old.
 - Income includes bonuses, overtime, tips, self-employment, etc.
 - Employment verification letter from the human resources department detailing the number of hours worked weekly, the rate of pay, and the anticipated annual gross wages.
- Pension benefits statement (annual/monthly) documenting gross amount received (if applicable).
- Current Social Security or SSI award letter.
- Any household members, including minors, receiving benefits.
- Copy of court order or decree from divorce proceedings (if applicable).
- Copy of child support order(s), probation letter from child support office, and payment history for the past 12 months.
- TANF current award letter (if applicable).

- Unemployment benefit verification (if applicable).
- Workers' Compensation letter (if applicable).
- Applicants who are self-employed (including those working part time for places like Uber, Lyft, etc.): submit profit and loss statements for the past 3 years and last quarter of current year.

Section III – Asset Verification for ALL Household Members Age 18 or Older

- Copies of signed Federal and State Income Tax Returns.
 - Must include W-2 forms and all filed schedules.
 - Must submit three (3) current years of returns.
 - Any adult household members who did not file must submit an IRS Verification of Non-filing Letter.
- Bank statements from all accounts (checking, savings, CD, etc.) for the past SIX (6) MONTHS – (which must include the account holder's name and account number).
- Bank verification of current interest rate on all accounts, including: checking, savings, CDs, IRAs, etc.
- Stock or bond statements showing current value.
- Evidence or reports of income from real estate or business assets.
- For real estate, most recent mortgage statement, tax bill, and proof of market value, as evidenced by an appraisal not more than one-year old, a comparative market analysis (CMA), or a broker's price opinion (BPO) prepared by a licensed real estate professional.

This guide recommends the following combination of documents be mailed to the applicant along with the Application for Affordable Housing:

- Transmittal letter explaining: eligibility criteria (including income limits); the certification process; the random selection process; and an explanation of all forms enclosed in the package.
- Checklist of required documentation to verify income and household composition.
- Disclosure of rights and responsibilities of affordable housing occupants (for for-sale and rental units as applicable).

If the administrative agent does not accept pre-applications, but only full applications, then these same documents should also comprise the application packages. Application packages will be available at various public locations as part of the municipality's affirmative marketing program.

Following a review of the applicant's initial submitted application materials, the administrative agent may need to use other certifications or release forms. For example, if a household member is not employed and not received any State or Federal benefits, then the "Certification of Zero Income" and "Certification of Employment Termination" forms should be completed by the household members.

Once eligibility documents and data have been collected, the administrative agent can begin the process of calculating the household's income.

The Applicant Interview

At the discretion of the administrative agent, the application process may include either or both an outreach requirement and a face-to-face applicant interview process. Ideally, the prospective applicant will be available to meet with the administrative agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that pose an obstacle to an interview. Therefore, the administrative agent should be prepared to complete the certification process via video conference platforms such as Microsoft Teams, Zoom, or WebEx, as well as via telephone, email, or mail. Clear procedures should be outlined in the Operating Manual. However, if an interview is to be conducted, the administrative agent should seek to achieve the following objectives:

- Confirm and update all information provided on the application;
- Explain program requirements, procedures used to verify information, and penalties for providing false information;
- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income;
- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years);
- Explain the requirement of obtaining a mortgage commitment in for-sale properties; and
- Explain the property's screening procedures, such as credit checks in rental projects.

Determining Household Income

The administrative agent will require each member of an applicant household who is 18 years of age or older, except full-time students under the age of 26 and those under the age of 26 participating in a registered apprenticeship program, to provide documentation to verify their income. Household members 18 years of age or older who do not receive income or who qualify for the full-time student or apprenticeship exemption must document current status. Income verification documentation should include, but is not limited to, the following for each and every member of a household who is 18 years of age or older:

- Enterprise Income Verification (EIV) System report;
- Four consecutive pay stubs, not more than 120 days old, including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure;
- Copies of State and Federal income tax returns for each of the preceding three tax years;
- A letter or appropriate reporting form verifying monthly benefits such as Social Security, unemployment, welfare, disability or pension income (monthly or annually);
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support;

- Income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds; and
- Evidence or reports of income from directly held assets such as real estate or businesses.

Administrative agents typically use a spreadsheet or worksheet to help calculate an applicant’s income, similar to the one available on the NJHMFA website. This summarizing document is useful in the event there is an appeal or question by the applicant concerning the calculation or during compliance periods. Administrative agents should save a record of the income spreadsheet used to determine an applicant’s eligibility.

What Counts as Income

This is a non-exhaustive list of various types of wages, payments, rebates, and credits. Items that must be considered part of the household’s income are listed in the Income column. Items not considered part of the household’s income are listed in Not Income. For more information, refer to Chapter 5 of HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, which is available at

https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3.

INCOME	NOT INCOME
Wages, salaries, tips, commissions, regular contributions or gifts from persons not living in the household	Rebates or credits received under low-income energy assistance programs or the Earned Income Tax Credit program
Alimony or child support	Food stamps or other food programs for the needy
Regularly scheduled overtime	Payments received for foster care
Pensions	Relocation assistance benefits
Social security	Income of a live-in aide, foster child, or foster adult
Unemployment compensation (verify the remaining number of weeks they are eligible to receive)	Scholarships and income from training programs
TANF	Loan proceeds (including student loans)
Regular annuity payments	Personal property such as automobiles
Disability	Lump-sum additions to assets such as inheritances, lottery winnings, gifts, and insurance settlements
Net income from business or real estate	Part-time income of persons enrolled as full-time students
Imputed interest on assets, if assets total more than \$50,000	State payments to allow individuals with disabilities to live at home
Rent from real estate is considered income	Property tax rebates

Any other forms of regular income reported to the Internal Revenue Service	Any other forms of regular income subject to federally mandated income exclusions
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The Asset Limit and Income from Real Estate

UHAC has updated requirements concerning the eligibility of applicants with assets. The administrative agent will deny the certificate of eligibility of an applicant household if it meets income eligibility requirements, but possesses net household assets valued at an amount greater than the net asset limit, defined as the estimated median home equity held by New Jersey Homeowners as determined annually by the United States Census Bureau’s Survey of Income and Program Participation and published by the Census Bureau in “State-Level Wealth, Asset Ownership & Debt of Households Tables” in the “Wealth and Asset Ownership Data Tables” series, available at <https://www.census.gov/topics/income-poverty/wealth/data/tables.html>. Administrative agents will determine household net assets in accordance with the procedure for calculating "net family assets" stipulated at 24 CFR 5.603(b), as it may be updated from time to time. See below the 2023 net household assets limit, as located in the above-mentioned table.

Net family assets is defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, and bonds, and other forms of capital investment. However, many assets are excluded from this calculation. Such exclusions include:

- Retirement accounts recognized by the IRS;
- Real property the applicant household is not authorized to sell;
- Cash amounts recovered in a civil action or settlement for a breach of duty or incident resulting in disability;
- Certain education or disability support savings accounts;
- Family Self-Sufficiency accounts;
- Federal tax refunds or refundable tax credits for a period of 12 months; and
- Trusts not revocable by any member of the household or family.

If an applicant household owns a home, it should be included in the calculation of net family assets, unless any of the following apply:

- The applicant’s existing monthly housing costs including taxes, homeowner insurance, and condominium or homeowner association fees exceed 38 percent of the household’s eligible monthly income;
- The applicant is receiving assistance for the residence pursuant to 24 CFR 982.620 or pursuant to the Homeownership Option at 24 CFR 982;
- The applicant jointly owns the residence with an owner-occupant who is not part of the applicant household and with whom the applicant does not reside;
- The residence is a restricted ownership unit subject to UHAC;

- Any member of the applicant household is a victim of domestic violence. Administrative agents must accept self-certification for this exemption; or
- The residence is not suitable for occupancy as defined at 24 CFR 5.618(a)(2)(i) through (v).

If an applicant owns a home that is not exempt from the calculation of net family assets, the owner must provide the administrative agent with a recent, certified appraisal on the home. When determining the net value of the asset, the administrative agent should deduct outstanding mortgage debt and the expense of selling the property (i.e. real estate commission, closing costs, and other reasonable costs) from documented market value (as determined by a certified appraisal) [or other authorized means of determining value if allowed]. However, before an administrative agent requests an applicant to obtain a professional appraisal, the administrative agent should relay the asset limit to the applicant to avoid any unnecessary expenses to the applicant.

Similarly, if an applicant owns real estate with mortgage debt, the administrative agent should determine the imputed income from the value of the property. To calculate the imputed income, multiply the net value of the home as described above and multiply it by the current passbook savings rate as established by HUD.

If the real estate is a rental property, the rent is considered income. The administrative agent should apply the above calculation to determine the value and imputed interest on the property, and perform a separate calculation to determine the income from rent. After deduction of any mortgage payments, real estate taxes, property owner insurance, and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount is counted as income.

Determining Income from Assets – 24 CFR 5.609(a)

Net Family Assets Scenario	Actual Income	Imputed Returns	Amount Included in Income
Assets of \$50,000 or less	Included	Not calculated	Actual income only
Exceeds \$50,000 and actual income can be computed for ALL assets	Included	Not calculated	Actual income only
Exceeds \$50,000 and NO actual income can be computed	N/A	Calculated using HUD passbook rate for all assets	Imputed returns for all assets
Exceeds \$50,000, but actual income can only be computed for some assets	Included for assets that can be computed	Calculated for any remaining assets where actual income cannot be computed	Actual income that can be computed AND imputed returns for all remaining assets that cannot be computed

Source: <https://files.hudexchange.info/resources/documents/Assets-Asset-Exclusions-and-Limitation-on-Assets-Resource-Sheet.pdf>
 Accessed: January 27, 2026

Determining the Percentage of Affordability

If dealing with a new development with many units to fill, an administrative agent may choose to take the following approach. When placing a household in an appropriately-priced affordable unit, the administrative agent must determine the maximum amount that the applicant household can afford toward housing payments each month. This figure can be determined by dividing the household’s verified annual income by the regional median income for their appropriate household size. This

percentage of affordability is necessary during initial sale of ownership units and during initial rent-up of rental units. This figure is then compared to the affordability ranges for which new units are being marketed (see the Determining Sale Prices and Rents section). The household's percentage of affordability dictates the type of unit in which they can be placed. Households should be placed in an appropriately-sized unit that is at or below their percentage of affordability. For instance, if one unit is designated for households at 64 percent of the regional median income and another unit is designated for households at 60 percent of the regional median income, a household that is at 62 percent should be offered the unit at 60 percent (at or below their range of affordability). There are some situations where a household may be offered a unit that is designated for an affordability percentage above their own.

Maximum Monthly Payments

UHAC limits the percentage of funds that a household can contribute toward housing expenses. However, there are exceptions. If an applicant qualifies for an exception from this rule based on the household's current housing cost (see below), the administrative agent should strive to place the applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

For Ownership Units

UHAC states that a certified household is not permitted to purchase a unit that would require more than 35 percent of the verified household income to pay principal, interest, taxes, homeowner and private mortgage insurance, and condominium or homeowner association fees, as applicable. However, at the discretion of the administrative agent, this limit can be exceeded if the applicant:

- Obtains a firm mortgage loan commitment at the higher level from a licensed financial institution, under terms consistent with the requirements of the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 through 35; and
- Submits a certification from a nonprofit counselor approved by HUD or the New Jersey Department of Banking and Insurance that the household has received counseling on the advisability of the loan transaction.

For Rental Units

UHAC states that a certified household is not permitted to lease a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities. For assisted living units, the combined cost of rent, food, and services may not exceed 80 percent of the eligible monthly income of the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.4. However, at the discretion of the administrative agent, this limit may be exceeded if:

- The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce the household's housing costs;
- The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- The household is currently in substandard or overcrowded living conditions;
- The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- The household documents proposed third party assistance from an outside source, such as a family member, in a form acceptable to the administrative agent and the Owner of the unit.

The applicant will file documentation sufficient to establish the existence of any of the circumstances described above with the administrative agent, who will counsel the household on budgeting.

Approving or Rejecting a Household

UHAC requires administrative agents to notify applicant households of their eligibility within five (5) days of the administrative agent's determination. Households with a verified total household income that exceeds 80 percent of the regional income limit for the appropriate family size are ineligible for purchase or rental of restricted units. A letter rejecting the household's application should be mailed to the household.

Similarly, households with a verified total household income that is within the income limits, but too low to afford any of the units administered by the administrative agent should be sent a letter rejecting the household's application, and/or referring them to housing counseling or the local Affordability Assistance Program, if available. Households with a verified total household income of less than 80 percent should be issued a letter certifying eligibility. This certification is valid for 180 days. If the administrative agent is unable to place the household in a restricted unit at the conclusion of 180 days, an extension may be granted once the household's eligibility is verified. In such case, the administrative agent must comply with the confidentiality requirements and restrictions on requesting documentation pursuant to 24 CFR § 5.2007.

Once the applicant is certified and matched to an available unit, and prior to the sale or lease of the restricted unit, the administrative agent must secure from the applicant a signed and notarized acknowledgement of the household's requirements and responsibilities in purchasing or renting a restricted unit. As applicable, UHAC Appendix J (ownership), Appendix K (rental), or Appendix D-3 (two-family unit ownership) may be executed either during the certification process or as part of the closing or lease execution package, provided that execution occurs prior to occupancy or transfer.

In addition to non-eligibility based on income, the administrative agent may deny a certification because of the household's failure or inability to document household composition, income, assets, sufficient funds for down payment or security deposit purposes, or any other requirements. A

household may also be denied certification if the administrative agent determines that there was a willful or material misstatement of fact made by the applicant.

Appeals

Appeals from all administrative agent decisions will be made in writing to the municipal housing liaison for the jurisdiction. A municipal housing liaison's decision may be appealed to DCA's Division of Local Planning Services. The Division Director will issue a written decision upholding, modifying, or reversing an administrative agent's decision with reasons in support thereof. The Division's written decision is a final administrative action.

Confidentiality and Protection Against Identity Theft

All information supplied by an applicant toward their certification of eligibility must be kept in the strictest of confidence. At no time is the municipality, municipal housing liaison, administrative agent, developer, affordable housing provider, owner, property manager or landlord permitted to release *any* information concerning an applicant other than for the purpose of income qualification.

To protect against identity theft, it is suggested that administrative agents refrain from placing an applicant's social security number and/or birth date on any mailed or faxed documents unless absolutely necessary. All extra copies or draft documents should be shredded. Administrative agents are also strongly encouraged to take necessary precautions to prevent unauthorized access to any computer files with personal information. At a minimum, workstations storing personal information should be password protected, auto locked, and securely firewall protected from the internet.

Legal Instruments, Control Periods, and Enforcement

The instruments in the Appendices can be grouped in the following way:

- Deeds (A, B, D-1, E)
- Restrictive Covenants (C, D-4, E)
- Household Certifications (D-3, J, K)
- Recapture Mortgage Notes (D-2, G, L, N)
- Recapture Mortgages (H, M, O, Q)
- Forms of Release (F-1, F-2)
- Preliminary Instruments (P-1, P-2)

It is important for administrative agents to have a clear understanding of each of these important tools and how they work independently and together to ensure that affordability controls are established and maintained throughout the control period.

A Deed is a legal instrument that transfers ownership from one party to another. A Restrictive Covenant is a provision limiting the use of the property or prohibiting certain uses. A Deed can incorporate Restrictive Covenants limiting the uses of the property. Alternatively, Restrictive Covenants may be legal instruments executed separately from and in addition to Deeds. UHAC employs restrictive instruments to limit the sale and use of affordable properties in order to provide and maintain affordable housing for New Jersey residents.

A Recapture Mortgage is usually a second mortgage made by the buyer of an affordable unit to an entity involved in the creation of the unit, which mortgage creates a lien or encumbrance on the property. The Recapture Mortgage is accompanied by and secures a Recapture Mortgage Note, which acknowledges the Recapture Mortgage and sets forth the terms of payment if affordability controls are not maintained in accordance therewith.

Items of Note for the Administrator

- In order to create, enforce, and maintain affordability controls, UHAC requires administrative agents to utilize instruments substantially in the forms set forth in the UHAC Appendices (N.J.A.C. 5:80-26 Appendices), which instruments must be executed and, where applicable, duly recorded.
- Administrative agents are responsible for ensuring that the correct UHAC appendices are used for each unit type, funding source, and Round.
- Preliminary instruments must be recorded prior to the issuance of building permits, and final deed restrictions or declarations must be recorded prior to the issuance of certificates of occupancy, as applicable to ownership and rental units.
- Affordability control periods differ by unit type, round, and funding source, and controls remain in effect until properly released in accordance with UHAC procedures.

- Recapture mortgages secure repayment obligations upon the first non-exempt sale of restricted ownership units are recorded with the appropriate county clerk or register of deeds, while recapture mortgage notes establish the terms of repayment and are not recorded.
- Administrative agents play a central role in enforcement, including document execution, monitoring compliance during the control period, coordinating with the municipal housing liaison, and responding to transfers, releases, extensions, and foreclosure-related events.

Affordability Control Instruments

The UHAC Appendices at N.J.A.C. 5:80-26 Appendices are composed of instruments that the administrative agent is responsible for having properly executing and recorded.

Preliminary Instruments

Notice of Intent to Construct Affordable Deed-Restricted Ownership Units (Appendix P-1)

Prior to the issuance of any building permit for the new construction of restricted units, the developer/owner and the municipality must record a preliminary instrument that specifies, at a minimum:

- The total number of ownership units to be constructed;
- The number of restricted ownership units to be constructed;
- The anticipated numbers of restricted ownership units that will be very-low-income, low-income, and moderate-income; and
- The address(es) and lot and block number(s) of the property, and the anticipated timeline for completion, including projected phasing.

The preliminary instrument must provide that it will be replaced by the recording of the full deed restriction prior to the issuance of the certificate of occupancy.

Notice of Intent to Construct/Rehabilitate Affordable Deed-Restricted Rental Units (Appendix P-2)

Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality must record a preliminary instrument that specifies, at a minimum:

- The total number of rental units to be constructed;
- The number of restricted rental units to be constructed;
- The anticipated numbers of restricted rental units that will be very-low-income, low-income, and moderate-income; and
- The address(es) and lot and block number(s) of the property, and the anticipated timeline for completion, including projected phasing.

The preliminary instrument must provide that it will be replaced by the recording of the full deed restriction prior to the issuance of the certificate of occupancy.

Restrictive Covenants

Three instruments containing Restrictive Covenants are included in UHAC as Appendix C, (Declaration of Covenants, Conditions and Restrictions), Appendix D-4 (Restrictive Covenant for Two-Family Affordable Homeownership Unit and Affordable Rental Unit) and Appendix E (Mandatory Deed Restriction for Rental Projects). The Restrictive Covenants contained in these instruments are referred to as “running with the land” because any subsequent purchaser takes subject to them; they attach to the property itself, not to any individual owner. Therefore, if the Restrictive Covenants are not released, their terms and conditions are passed on to subsequent owners.

Appendix C is an agreement by the developer of the project or the homeowner or condominium association that sets forth the Affordable Housing Covenants, thereby limiting the use of the property for the duration of the applicable control period. Appendix C is signed by the developer or homeowner or condominium association representative before a Notary and, just like a Deed, it is recorded in the County Clerk’s Office of the county in which the property is located.

Appendix D-4 is an agreement between the developer of one or more two-family homes, each of which homes containing one affordable rental unit and one affordable ownership unit, that sets forth the Affordable Housing Covenants, thereby limiting the use of the property for the duration of the applicable control period. Appendix D-4 is signed by the developer before a Notary and, just like a Deed, it is recorded in the County Clerk’s Office of the county in which the property is located.

Appendix E is an agreement signed by the Owner of a multi-family rental project that sets forth the Affordable Housing Covenants, thereby limiting the use of that rental property for the duration of the applicable control period. The Deed Restriction is signed by the Owner before a Notary, and is recorded in the County Clerk’s Office of the county in which the property is located. The Restrictive Covenants contained in Appendix E also “run with the land” and any subsequent purchaser of the rental project takes subject to them. The administrative agent should ensure that Schedule A attached to the Deed Restriction contains an accurate legal description of the unit/project, including identification by lot, block, and street address, as well as a designation as to whether the unit(s) are reserved for very-low-, low-, or moderate-income households and the number of bedrooms in each unit.

Deeds

A Deed (commonly referred to as Title to the property) is a signed legal document that transfers ownership from one individual or entity to another and may contain Restrictive Covenants concerning the use of the property. The language in a Deed includes conveyance of title from seller (grantor) to buyer (grantee), as well as a description of the physical location and size of the property (metes and bounds description) and a recital of the property history. Deeds are included in UHAC as Appendices A, B, D-1, and E.

Sale of Round Four Ownership Unit (Appendices D-1 and A: Mandatory Deed Forms for Ownership Units) – Applicable to all units with affordability periods commencing after November 5, 2025

- Condominium Units: A Deed in the form of Appendix A should be used for sales of all Round Four ownership units as long as the form of Declaration in Appendix C has already been recorded. If a unit is not already properly restricted by Appendix C, then Appendix A is the Deed form with restrictions that should be used. Appendix A includes the Restrictive Covenants set forth in Appendix C. Similarly, units that were constructed with State or NJHMFA financed programs and subject to UHAC, but do not have Appendix C recorded, should use the Deed form at Appendix A upon resale.
- Two-Family Homes: A Deed in the form of Appendix D-1 should be used for the sale of all Round Four two-family homes with a restricted rental unit.
- Single-Family Homes: A Deed in the form of Appendix A should be used for the sale of all Round Four single-family home ownership units.

Sale of Round One, Two, or Three Ownership Unit (Appendix B: Mandatory Deed Form for Ownership 95/5-Restricted Units)

A Deed in the form of Appendix B must be used for all 95/5-restricted units within the first control period. This Deed applies to all condominium, two-family, and single-family homes. This Deed is for a 95/5-restricted unit not Deed Restricted by Appendix C. If a unit/project has a Restrictive Covenant (Appendix C), then Appendix A should be the Deed form used on sale of the unit.

Recapture Mortgage Note and Mortgage Securing Payment of Recapture

A mortgage is an interest in land created by a written instrument providing security for the repayment of a debt or the performance of a duty. The purpose of the Recapture Mortgage Note with regard to affordability controls is to establish the terms of payment to the mortgagee (the municipality, DCA, or NJHMFA) upon the first non-exempt sale of the affordable unit. The Mortgage Securing Payment of Recapture establishes a mortgage lien on the property. The Mortgage Securing Payment is between the Buyer and the municipality, DCA, NJHMFA or a non-profit corporation, depending on the specific financing circumstances regarding the creation of that unit. Typically, all ownership units will have two mortgages: the Purchase Money Mortgage from a lender, the proceeds of which the Owner uses to purchase the unit, and the Mortgage Securing Payment. The Mortgage Securing Payment is second, or subordinate to, the Purchase Money Mortgage.

Round Four Units in Favor of Municipality (Appendix O: Form of Mortgage Securing Payment of Recapture Note in Favor of Municipality)

If no DCA or NJHMFA funds were used to construct the restricted unit, the Recapture Mortgage for that unit will be in favor of the municipality. Therefore, a Recapture Mortgage in the form of Appendix O will be used at the sale and resale of these units during the control period.

95/5-Restricted Units (Appendix H: Form of Mortgage Securing Payment of Recapture Amount for 95/5-Restricted Unit)

A Recapture Mortgage in the form of Appendix H will be used at the sale and at each resale of a 95/5-restricted unit throughout its affordability controls, unless the unit is made subject to the new affordability controls in UHAC.

State Funded Housing Units (Appendix M: Form of Mortgage Securing Payment of Recapture Note in Favor of the State)

A Recapture Mortgage substantially in the form of Appendix M will be used at the sale or resale of any restricted units that utilized financing by DCA.

MONI or UHORP Units (Appendix Q: Form of Mortgage Securing Payment of Recapture Note in Favor of the Agency)

A Recapture Mortgage substantially in the form of Appendix Q must be used at the initial sale and resale of any restricted units that utilized financing from NJHMFA's MONI or UHORP Programs.

Prior Round Units

- Appendix G: Form of Note for Payment of Recapture Amount for a 95/5 Unit
- Appendix H: Form of Mortgage Securing Payment of Recapture Amount for a 95/5 Unit

Round Four and Beyond

- In favor of the State:
 - Appendix L: Form of Recapture Mortgage Note in Favor of State
 - Required by N.J.A.C. 5:80-26.6(c)
 - Appendix M: Form of Mortgage Securing Payment of Recapture Note in Favor of the State
 - Required by N.J.A.C. 5:80-26.6(c)
- In favor of the Municipality:
 - Appendix N: Form or Recapture Mortgage Note in Favor of Municipality
 - Required by N.J.A.C. 5:80-26.6(c)
 - Appendix O: Form of Mortgage Securing Payment of Recapture Note in Favor of the Municipality
 - Required by N.J.A.C. 5:80-26.6(c)
- In favor of NJHMFA:
 - Appendix Q: Form of Mortgage Securing Payment of Recapture Note in Favor of the Agency
 - Required by N.J.A.C. 5:80-26.6(c)

For Round Four units, the amount that the Recapture Mortgage Note recaptures is the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

For 95/5-restricted units, the amount recaptured is not determined until the first non-exempt sale after the control period ends. The recapture amount is 95 percent of the difference between the actual sale price and the maximum restricted sale price that would have been in place if the affordability controls were still in effect.

Round Four Units (Appendix N: Form of Recapture Mortgage Note in Favor of Municipality)

A Recapture Mortgage Note in the form of Appendix N must be used at the initial sale and resale of all Round Four units. This Recapture Mortgage Note is not intended for restricted units that utilized DCA or NJHMFA funds in their construction.

95/5-Restricted Units (Appendix G: Form of Note for Payment of Recapture Amount for 95/5 Restricted Unit)

A Mortgage Note in the form of Appendix G must be used at the initial sale and at the resale of any restricted 95/5 units.

Balanced Housing Units (Appendix L: Form of Recapture Mortgage Note in Favor of the State)

A Recapture Mortgage Note in the form of Appendix L must be used at the sale and resale of any restricted units that utilized financing from DCA's Balanced Housing Program. See the chart on page XX for all other required documents.

Note: The legal instruments required for restricted units vary based on the round of affordable housing obligations under which the unit was created. Units created to satisfy Round Four obligations are governed by the regulations effective November 6, 2025. Prior-round units remain governed by the applicable approval, agreement, court order, or the version of the regulations in effect at the time the unit was created until the expiration of the current restrictive instrument at which point a new restrictive covenant will be executed under Round Four regulations.

Recording Legal Documents

The filing and recording of legal documents is generally the responsibility of the Buyer's attorney or title company, but the administrative agent may elect to take on this responsibility. Administrative agents that are new to recording documents should contact their County Clerk's Office to inquire about local procedures and pricing. Municipalities are sometimes charged a rate for recording documents that is a fraction of the rate charged to private individuals or businesses. Administrative agents have been successful in getting the lower rate by having the Municipal Clerk write to the County Clerk to alert that an administrative agent will be recording documents on their behalf. The time it

takes to receive back a document submitted for recording varies greatly from county to county – from as little as two weeks to as long as 6 or 8 months. Get to know your County Clerk’s procedures and usual timelines, and work with them to streamline and follow-up, when required.

Controls on Ownership Units

Minimum Control Periods on Ownership Units

All ownership units are subject to affordability controls for a deed-restricted control period. The minimum duration is:

- Thirty years for any ownership unit created on or after December 20, 2024;
- Thirty years for any ownership unit receiving an extension of affordability controls on or after December 20, 2024, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20 years, that in combination with the original term results in 60 years of affordability;
- Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round ownership unit, including all units governed by 95/5 restrictions, sold before December 20, 2024; and
- Governed by the form of UHAC in effect as of December 20, 2004, for any unit sold between December 20, 2004 and December 20, 2024, that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.

For each restricted ownership unit governed by a 95/5 restriction, all conveyances during the 95/5 control period must be made by deeds and restrictive covenants in the forms prescribed at N.J.A.C. 5:80-26 Appendices B, C, G, and H.

If the municipality does not elect to release affordable units, the restricted ownership unit remains subject to the affordability controls set forth in UHAC until the owner gives notice of their intent to make an exit sale.

Beginning of Controls on Ownership Units

The affordability control period for a restricted ownership unit begins on the date that the initial certified household takes title to the unit, or, if existing affordability controls are being extended, on the effective date of the extension. Affordability control periods run consecutively, the date of the end of the previous control period should be the beginning of the next and must be stated as such in the deed document.

Transferring Ownership of a Restricted Unit

An unapproved sale or transfer of ownership of a restricted unit that is not made in accordance with the requirements of UHAC is not an authorized non-exempt sale; thus, all requirements, restrictions,

and liens associated with the unit being sold or transferred remain in effect until full satisfaction of those requirements.

Release of Controls on Ownership Units

Once a municipality releases an ownership unit from its affordability controls, the administrative agent executes a release in the form set forth at N.J.A.C. 5:80-26 Appendix F-1. The owner of the restricted unit must record the release and promptly return the recorded originals to the administrative agent. The owner of the unit released from affordability controls may sell the unit to any purchaser at the fair market price of the unit.

Option to Buy Expiring Units

At the time of the first sale of a prior round restricted unit following the minimum control period, but before the municipality releases the unit from the affordability controls, the municipality has the right of first refusal to purchase the unit at the maximum resale price, provided that the municipality enters into a contract of sale within 90 days of the notification of intent to sell and the mortgage remains in full force and effect. Funds from a local Affordable Housing Trust Fund may be used to acquire and/or rehabilitate an ownership unit. Because of this option, it is critically important for the administrative agent to promptly inform the municipality of all notifications of intent to sell. The municipality should have a policy in place as to whether the municipality will purchase such units and a strategy in place to do so. The administrative agent should be made aware of the municipality's intentions and it should be articulated in the Operating Manual.

If the municipality does not exercise this option within 90 days, the first of the other favored entities giving notice to the seller of its intent to purchase during the 90-day period may purchase the unit. If the option to purchase the unit at the maximum allowable restricted sale price is not exercised by one of the favored entities by a written offer within 90 days of receipt of notice of the intent to sell, the owner may proceed to sell the housing unit pursuant to N.J.A.C. 5:80-26.22.

Controls on Rental Units

UHAC establishes mandatory affordability controls on restricted rental units to ensure that such units are occupied by income-eligible households and remain affordable for the required control period.

Minimum Control Periods on Rental Units

The minimum control period for a restricted rental unit is:

- Forty years for any rental unit created on or after December 20, 2024;
- Thirty years for any rental unit in a 100 percent affordable property that, on or after December 20, 2024, elects to extinguish its existing deed restriction to enter into a new deed restriction and commence refinancing and/or rehabilitation for the purpose of preservation;

- Thirty years for any other rental unit that, on or after December 20, 2024, extends its affordability controls for a new term of affordability, unless the original term of affordability exceeds 30 years, in which case, the minimum control period for the extension is the number of years, not less than 20, that in combination with the original term results in 60 years of affordability;
- Governed by the grant of substantive certification, judgment of compliance, grant agreement, or other contract for any prior round rental unit that was issued its certificate of occupancy before December 20, 2024; and
- Governed by the form of UHAC in effect as of December 20, 2004, for any prior round rental unit that was issued its certificate of occupancy between December 20, 2004 and December 20, 2024, and that is not the subject of a grant of substantive certification, judgment of compliance, grant agreement, or other contract.

Beginning of Controls on Rental Units

The affordability control period on restricted rental units begins when a certificate of occupancy is issued or on the effective date of the extension of controls.

Administration During the Control Period

During the control period:

- Restricted rental units may be rented only to households certified as income-eligible in accordance with UHAC.
- Initial rents, rent increases, and fees and charges must comply with all requirements set forth at N.J.A.C. 5:80-26.13.

Extension of Controls on Rental Units

A municipality may elect to extend affordability controls on restricted rental units under the following conditions:

- The deed-restricted control period has not yet expired but will expire within the applicable timeframe specified in N.J.A.C. 5:80-26.12(h).
- The municipality must notify the owner of its intent to extend controls in writing, by certified mail and email (if available), within the timeframes established by regulation.
- If the owner provides notice of intent to extinguish affordability controls, the municipality has 180 days to elect to extend controls. Reference 5:80-26.12(h) for more information on how to extend rental controls.
- Any extension must be effectuated through the execution and recording of a new deed restriction that complies with UHAC and establishes a new control period.

Release of Controls on Rental Units

Affordability controls on restricted units may be released only when:

- The applicable control period has expired;
- The municipality affirmatively elects not to extend affordability controls; and
- All procedural requirements under UHAC have been satisfied.

Until all three conditions are met, affordability controls remain in full force and effect.

Enforcement

UHAC at N.J.A.C. 5:80-26.19(a), provide that the municipal housing liaison is responsible for oversight and coordination of all the activities of the municipal government as they relate to the creation, preservation, and administration of affordable housing programs, affordable units, and reporting. UHAC goes on to say that such oversight activities include ensuring that administrative agents execute the practices, procedures, and standards set forth. Administrative agent practices and procedures include, but are not limited to, the following:

- Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit be offered, or in any other way committed, to any person other than a household duly certified to the unit by the administrative agent;
- Requiring that all certified applicants for restricted units execute a certificate in the form, as applicable, of either the ownership or rental certificate set forth at N.J.A.C. 5:80-26 Appendices D-3, J, or K;
- Working with the municipal housing liaison to ensure that affordable housing opportunities are posted to the HRC and, if necessary, levying fines for noncompliance and requiring new lotteries;
- Mailing annual notices to all owners of affordable dwelling units, reminding them of various requirements as set forth at N.J.A.C. 5:80-26.19(d)4;
- Securing from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back into their unit or sell it; and
- Reviewing and approving requests from unit owners to incur additional debt, such as refinancing or a home equity loan. The total debt may not exceed 95 percent of the current maximum restricted sale price.

Durability of Affordability Controls

When used properly, the various legal instruments included with UHAC should adequately protect the unit from loss of affordability controls due to foreclosure. Furthermore, affordability controls on



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rental units will remain despite improper sublease or assignment of the lease or improper sale or other voluntary transfer of ownership.