



City of Summit Affordable Housing Operating Manual

A Guide to the Administration of Affordable Housing & Programs

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History of Revisions

Date	Summary
12-29-22	Initial Draft
6-13-22	Added Individual Taxpayer Identification number as an alternative to Social Security Card (Page 11).

Introduction

This Manual describes the policies and procedures of the City of Summit's Affordable Rental Housing Program. It examines program purposes and provides guidelines for the administration of the units. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and procedures.

The scope of the manual includes the steps in the renting and selling affordable housing units included in the City's Housing Element and Fair Share Plan. The manual also provides policies and procedures for the Market to Affordable and Affordability Assistance Programs. In addition, it describes the eligibility requirements for buying and renting affordable units, record keeping, and overall Program administration.

Implementation of any procedure, even if it is not included in this Operating Manual, shall be in accordance with the Federal Fair Housing Act and Equal Opportunities laws¹, the Uniform Housing Affordability Controls (UHAC) NJAC 5:80-26.1 et seq.², P.L.2020, c.51 (C.52:27D-321.3 et seq.), the Fair Chance in Housing Act (N.J.A.C. 46:8-52 et seq.), and the affordable housing regulations of the **City of Summit** (hereafter referred to as the "Regulations").

In accordance with the Federal Fair Housing Act and Equal Opportunities laws, it is unlawful to discriminate against any person making an application to buy or rent a home with regard to age, race, religion, national origin, sex, handicapped or familial status.

A copy of the City of Summit Housing's Element and Fair Share Plan and other related reports and information, including a pre-application form for households, can be found at:

<https://www.cityofsummit.org/AH>

A copy of the pre-application is included in Appendix B.

What Is Affordable Housing?

Affordable housing, unlike market-rate housing, has affordability controls limiting the price for at least 30 years. A home is considered "affordable" under State regulations if the household pays approximately 35% or less of its gross income on housing costs. In the case of rental housing, housing costs are limited to the cost of rent and utilities.

Affordable housing is priced to be affordable to households earning up to 80% of the regional area median income by household size.

¹ https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview

² <https://www.state.nj.us/dca/affiliates/coah/regulations/uhac/uhac.pdf>

Who Qualifies for Affordable Housing?

To be eligible for affordable housing in New Jersey, a household’s income must be below the income limit for the region in which the affordable housing is located, either for low or moderate levels:

- A **moderate-income household** is classified as earning between 50 percent and 80 percent of the area median income by household size.
- A **low-income household** is classified as earning less than 50 percent of the area median income.
- The Fair Housing Act has included a new category for **very low-income households**, classified as earning less than 30 percent of the area median income.

The 2008 amendments to the New Jersey Fair Housing Act require municipalities to provide at least 13% of affordable units post-2008 in their fair share plans to very low-income households earning 30 percent or less of median income by household size.

The six housing regions consist of up to four counties:

Region	Counties
1	Bergen, Hudson, Passaic, Sussex
2	Essex, Morris, Union, Warren
3	Hunterdon, Middlesex, Somerset
4	Mercer, Monmouth, Ocean
5	Burlington, Camden, Gloucester
6	Atlantic, Cape May, Cumberland, Salem

The Regional Income Limits Chart (Attachment A) provides income limits for each of the six housing regions. Each region has different calculated median incomes, which are adjusted annually.

An applicant does not have to currently live in the region in which they are interested in applying for an affordable unit. An applicant’s income qualification is determined by the Regional Income Limits for where the unit is located rather than where the applicant currently lives.

Applying for City of Summit Affordable Housing

The City of Summit uses a pre-application (Appendix B) and full-application (Appendix C) model to identify potential tenants and owners for its affordable housing. The pre-application collects basic information that allows the Administrative Agent to “test” an applicant against an available unit. A copy of the current pre-application can be found in Attachment B.

Once a pre-applicant is found to be a viable candidate for an available unit, they will be asked to complete the full application and provide all of the source documents.

Local Affordable Housing and Other Opportunities

The following is a list of affordable housing in the City covered by this Manual.

Address	Type of Affordable Unit
50 Parmley Place, Unit #106	Rental
50 Parmley Place, Unit #108	Rental
13 North Street (Unit #1R)	Rental
13 North Street (Unit #1L)	Rental
13 North Street (Unit #2ND FL REAR)	Rental
120 Morris Avenue (7 Russell Place)	Rental
120 Morris Avenue (7 Russell Place)	Rental
31 Russel Place (Unit A)	Rental
31 Russel Place (Unit B)	Rental
708-710 Springfield Avenue (Unit #708A)	Rental
708-710 Springfield Avenue (Unit #708B)	Rental
708-710 Springfield Avenue (Unit #710A)	Rental
708-710 Springfield Avenue (Unit #710B)	Rental
785 Springfield Avenue	Rental
785 Springfield Avenue	Rental
545 Morris Avenue (Unit #103)	Rental
545 Morris Avenue (Unit #104)	Rental
545 Morris Avenue (Unit #214)	Rental
545 Morris Avenue (Unit #215)	Rental
43 Glendale Road	Rental
39 Morris Avenue (Unit A)	Ownership
39 Morris Avenue (Unit B)	Ownership
39 Morris Avenue (Unit C)	Ownership
39 Morris Avenue (Unit D)	Ownership
39 Morris Avenue (Unit E)	Ownership
39 Morris Avenue (Unit F)	Ownership

This list will be appended with new units as they are added to the City's affordable housing portfolio.

Other Affordable Housing Programs And Opportunities

Affordable housing is administered by a wide variety of organizations and agencies. Each City, under the Fair Housing Act's jurisdiction, has a Municipal Housing Liaison who is responsible for administering the City's affordable housing program. Individuals interested in applying for affordable housing should contact the Municipal Housing Liaison in the City where they are interested in living. Some municipalities administer their affordable housing and have their own

application process. If not, the Municipal Housing Liaison can direct applicants to developers, nonprofit agencies, State agencies, or consultants that may administer affordable housing within the City.

The ***New Jersey Housing and Mortgage Finance Agency*** have established New Jersey's Housing Resource Center, an online, searchable database of affordable housing in the State. The Housing Resource Center provides a listing posted by developers, landlords, and municipalities of available, affordable housing. Available units are listed with contact and application information. Look for the Housing Resource Center at www.njhrc.gov.

The ***Affordable Housing Professionals of New Jersey*** maintains a web page with a comprehensive list of affordable housing opportunities in New Jersey. Please visit <https://ahpnj.org/housing-search> for more information.

Fair Housing and Equal Housing Opportunities

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

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or <https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/>.

Matching Households with Available Units

The City of Summit uses a two-step process to match available units with potential tenants and buyers of affordable homes. First, anyone interested in buying or renting an affordable unit will be instructed to complete a pre-application on the City's website. The pre-application is very brief and designed to collect only the information necessary to assess a household's income and bedroom requirements for available units.

Once a pre-applicant has been part of a random selection and has been potentially matched with an available unit, they will be required to complete a full application. The six-page application (see Appendix C) collects detailed information on each household member, including their income, assets, and other information necessary to determine the household's eligibility according to the UHAC regulations.

The Random Selection Process

UHAC requires communities to include a "random selection" among interested applicants when filling a vacant affordable housing unit. The purpose of random selection is to ensure "that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit."

The City of Summit uses a system that randomizes the entire pool of pre-applicants each time a unit or group of units is available. The steps involved in conducting the randomization are as follows:

1. Download the complete database of all pre-applications in the applicant pool into Excel.
2. Identify and remove duplicate records. When a duplicate record is found, the oldest record or records will be deleted, leaving the most recent record. This allows people to provide more up-to-date information that will be useful in matching them with available units.
3. Using a random number generator (such as random.org), paste the random numbers into a new spreadsheet column.
4. Sort the spreadsheet based on the random number column.

The above process will result in a spreadsheet that has assigned a random number to each pre-application and then sorted by their randomized number (from lowest to highest). This spreadsheet will be saved and used to document the random selection process for an available unit or units.

Identifying Candidates for Available Units

The Administrative Agent will use the following process to test each applicant against the available unit(s) in the order of their random selection.

1. **Regional Preference Test.** Pre-applicants that live or work in the Counties of Essex, Morris, Union, and Warren (COAH Region 2) will be considered first as per the City of Summit's Affirmative Marketing Ordinance (35-19.1-C) establishing a preference for preapplicants that live or work within the City's COAH Region.

2. **Veteran Preference Test.** If applicable to the available unit(s), pre-applicants that have confirmed their status as
3. **Bedroom Test.** Next, the bedroom size of the available unit(s) will be tested against the random selection list. If the first preapplicant seeks a unit with a different number of bedrooms, they will be skipped, and the next preapplicant will be evaluated. Once a match is made between the available unit(s) and a pre-applicant, the following criteria will be tested.
4. **Income Test.** The first preapplicant on the random selection list that meets the bedroom test will then be tested to ensure their reported income is sufficient to afford the rent and utilities of the available unit.
 - a. If the database record for the preapplicant is more than six months old, the AA will contact the preapplicant to update their gross household income, household size, and bedroom requirement. Any changes will be made to the random selection list and the preapplicant database.
 - b. If the rent and utilities of the available unit exceed 35% of the preapplicants gross household income, the preapplicant will be evaluated for a waiver under 5:80-26.13(b). Specifically:
 - i. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - ii. 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;
 - iii. The household is currently in substandard or overcrowded living conditions;
 - iv. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - v. 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 unit owner.
 - c. If the preapplicant's income is insufficient to afford the available unit and the circumstances described in 5:80-26.13(b) do not apply, the preapplicant will be skipped.

Confirming the Interest of a Candidate

A preapplicant that passes the Regional Preference, Veteran Preference (if applicable), Bedroom, and Income Tests is considered a viable candidate for the available unit and will be contacted to determine if they are interested in the available unit. The Administrative Agent will provide essential information to the candidate, including current rent, estimated utilities, amenities, parking availability, and potential move-in date. If the candidate is interested in the unit, they will be instructed by the Administrative Agent to contact the Landlord or Property Manager responsible for the unit to visit the unit.

If the candidate is interested in moving forward after seeing the unit, the Administrative Agent will forward them the City's full application. The candidate will be instructed to complete the full application and attach all of the required source documents listed on the application.

Full Application & Income Certification Process

A pre-applicant that has confirmed their interest in buying or renting an available, affordable housing unit will be forwarded a full application (see Appendix C). The household will be given a week to complete the application and provide the required documentation listed in the application. Those documents include the following:

- Copies of photo IDs for all adults in the household
- Copies of social security cards or Individual Tax Payer Identification cards for all members of the household
- Five (5) consecutive pay stubs for each source of income for each working member of the household
- Two (2) most recent income tax returns with W-2s and all schedules
- Where applicable, the most recent award letter for Social Security, Alimony/Child Support
- Where applicable, the most recent award letter for SSI or SSD
- Checking and Savings Account statements for three (3) consecutive months

Before the Administrative Agent reviews an application, the application must be complete and signed by all household members over the age of 18. In addition, all applicable source documents are required before reviewing the application.

It may be necessary for the Administrative Agent to collect additional information and documentation from the applicant beyond the items listed above. The Administrative Agent will notify applicant households in writing of certification or denial within 20 days of the determination.

Once approved, a certified household for a rental unit will work with the leasing agent or landlord to sign the lease, pay the first month's rent and the security deposit and receive the keys. Then, the certified household moves into the affordable rental unit.

See ***Household Certification*** for more information on how eligibility is determined.

Affordability Assistance: Security Deposits for Renters

The City of Summit will designate a portion of all development fees collected and interest earned towards a revolving Affordability Assistance Fund. In addition, an interest-free loan from the Affordable Housing Trust fund is available to an income-eligible renter with good credit standing who qualifies for a very low, low- or moderate-income rental unit in the program as per the following guidelines:

1. The security deposit assistance will be in the form of a cash loan equal to the security deposit amount determined by the landlord and paid to the landlord on behalf of the tenant
2. At the termination of the lease, the landlord will return the portion of the security deposit it determines to the City of Summit, along with interest earned. The tenant will repay any difference between the original security deposit amount and the portion returned by the landlord. Funds returned to the City will be placed in the affordable housing trust fund to be used for future security deposit assistance
3. The Administrative Agent will administer the City of Summit's Security Deposit Affordability Assistance Program. After an applicant is income qualified by The Administrative Agent pursuant to COAH's rules and the Uniform Housing Affordability Controls or cannot be qualified due to a need for assistance, an affordability assistance application will be completed and forwarded with all necessary documentation to The Administrative Agent. The affordability assistance recipient will sign a contract with Summit City which states the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information. The availability of the City's Affordability Assistance Program will be noticed to all tenants of affordable units within Summit. An income-eligible occupant or applicant for an affordable unit within the City may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

Affordability Assistance: Down Payment and Closing Cost Assistance

The City of Summit will designate a portion of all development fees collected and interest earned towards a revolving Affordability Assistance Fund. An interest-free loan from the Fund is available to income-eligible buyers purchasing an affordable ownership unit:

The down payment/closing cost assistance loan will be in the form of a secured second mortgage. The maximum amount of assistance is \$15,000 for income-eligible homebuyers. The loan will be forgiven if Buyer retains ownership and complies with the affordable housing regulations after five (5) years. If the Buyer elects to resell the unit or is found to violate the affordability regulations, the full amount of assistance will be payable to City and returned to the Affordability Assistance Funds.

Eligible closing cost fees include expenses paid at closing such as an attorney, title insurance and survey fees, appraisals, points, origination fees, recording taxes and fees, prepaid escrows for property taxes and insurance, structural inspection/engineer's report and pest inspections, and the reimbursement of fees paid before loan closing (i.e., application, credit, flood certification, and appraisal fees). All closing costs must be reasonable and customary and may not exceed those normally charged on a conventionally financed home located in the area where the financed property is located.

Assistance from the Program shall be secured through a Mortgage and Mortgage Note in favor of the municipality executed by the property owner. The Mortgage and Mortgage Note will be executed at closing. The closing agent will record said documents with the County Clerk's office upon the completion of the closing of the title. The original mortgage note shall be retained by the Administrative Agent and kept in the unit file. The Program mortgage must be listed on the HUD1 Settlement Statement and will precede the Affordable Housing Recapture Mortgage in the chain of title.

MARKET TO AFFORDABLE PROGRAM

The City's Market to Affordable Program aims to subsidize the purchase price of market-rate homes and condominiums to make them affordable to income-eligible households. In consideration of the funding from the Program, the owner agrees to sign a deed restriction on the property to make it affordable for at least 30 years. In addition, units assisted with the Program are intended to create affordable housing credits towards the City's Fair Share Plan.

The Market to Affordable Program will provide up to \$100,000 in direct assistance to write down the cost of a market rate unit. The actual amount of funding made available will be based on the applicant's household income and the housing expense of a particular unit.

Given the discrepancy between market rate prices of homes in the City of Summit and prices that are affordable to households earning less than 80% of the Area Median Income, it may not be easy to find homes that can be within reach of being successfully subsidized to an affordable level before reaching the Program's assistance cap.

Procedures

1. Process pre-approval of applicant household (Buyer), including:
 - a. The Administrative Agent will conduct a phone interview with the applicant that describes the program, including the importance of providing accurate household income data in the pre-application.
 - b. The applicant then completes pre-application for the program. The pre-application will include information on the program that the applicant must acknowledge through signature.
 - c. The Administrative Agent processes the pre-application. Using income information provided in the pre-application, the Administrative Agent will calculate the maximum sale price the applicant can afford using the maximum assistance available from the Program. This figure will only be illustrative, given fluctuating interest rates and different real estate taxes.
 - d. The Administrative Agent will provide a written pre-approval to the applicant describing the following steps and sharing the calculation of estimated sales prices for condos and single-family homes that the applicant may be able to afford with the Program's assistance. In addition, the Administrative Agent will include a copy of the full application that will be required from the applicant immediately after signing a contract of sale to establish their final eligibility.
2. The applicant will work with a local real estate agent to find a unit. The Buyer will be instructed to contact the Administrative Agent and provide the sale price, real estate taxes, current interest rate for a 30-year mortgage, and the homeowner association dues (if any) of any unit they are considering. The Administrative Agent will interview the homeowner about any income changes since the pre-approval was made and calculate the affordability of the proposed unit. If the unit is affordable after the Program subsidy, the Administrative Agent will encourage them to visit the unit and make an offer if they are interested in purchasing the unit.

- a. After signing a contract of sale with the Seller, the Buyer will be required to submit a full application to the Program along with all required source documentation.
 - b. If the unit requires any rehabilitation, the Buyer will be encouraged to determine those costs immediately after signing a contract of sale.
3. The Administrative Agent will review the buyer's full application and determine if they can be certified as an income-eligible buyer.
4. Using the household income from the application, the Administrative Agent will recalculate the affordability of the home to determine how much Program subsidy is required to make the unit affordable.
5. The Administrative Agent will contact the City Tax Assessor to discuss an assessment that reflects the affordable value of the unit.
6. The Administrative Agent will prepare a Deed containing restrictive covenants and a mortgage and mortgage note for the program assistance. The documents will be shared with the Buyer and forwarded to the closing agent with instructions to record the mortgage and deed.

Loan Requirements

All first-money mortgages on units participating in the Program must adhere to the following requirements:

- All loans must have a fixed rate interest rate.
- Lenders are encouraged to offer "below-market" interest rates.
- Loans must be free of "origination fees" or points.
- Loans may not exceed a term of more than thirty (30) years.
- In situations where the applicant's gross income exceeds a 45% debt-to-income ratio, lenders must be willing to consider income from other household members as a "compensating factor."

ROLES AND RESPONSIBILITIES

Key Roles

The **Municipal Housing Liaison (MHL)** is a City of Summit full-time employee. The MHL serves as the main point of contact for residents, developers, and stakeholders interested in learning more about the City's efforts to create affordable housing. The City's Municipal Housing Liaison is:

Matthew DiLauri, QPA
Assistant Director, Operations & Planning
The City of Summit, Department of Community Services (DCS)
512 Springfield Avenue, 2nd Floor
Summit, NJ 07901
P: (908) 273-6404
F: (908) 608-1214
E: mdilauri@cityofsummit.org

The **Administrative Agent (AA)** is responsible for the overall administration of the City's affordable housing portfolio and various related affordable housing programs. The City's Administrative Agent is a private consultant:

Marc Leckington
Leckington Advisors, LLC
100 Campus Town Circle
Suite 103, #2144
Ewing, NJ 08638
P: 908-777-7752
F: 609-881-1593
E: marc@leckingtonadvisors.com

Responsibilities of the Municipal Housing Liaison

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the City's Affordable Housing Attorney, where appropriate (see **Responsibilities of the Affordable Housing Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to applicable regulations. The duties of the Municipal Housing Liaison include the following:

- **Monitor the status of all restricted units in the City's Fair Share Plan.** Regardless of any arrangements the City may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in the community.
- **Serve as the City's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property**

managers, and interested households. In addition, the Municipal Housing Liaison serves as the City’s primary point of contact on affordable housing issues. Therefore, interested applicants should be provided with information on the types of affordable units within the City and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

- **Compile, verify, and submit annual reporting.** Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual monitoring report. However, it is the Municipal Housing Liaison’s responsibility to collect and verify this data and consolidate it into the annual report.
- **Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners.** When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor, or owner. This initial meeting aims to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all related local ordinances.

The Municipal Housing Liaison, in conjunction with the Affordable Housing Attorney, must have the affordable housing provisions of any Master Deed and Public Offering reviewed for consistency with UHAC regulations before they are recorded and submitted to DCA for approval.

Responsibilities of an Administrative Agent

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

- **Secure written acknowledgment from all developers, affordable housing sponsors, and owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.**
- **Create and adhere to an Operating Manual.** Administrative Agents are required to follow the policies and procedures of an Operating Manual as applicable to the scope of services they have been contracted to perform.
- **Implement the City’s Affirmative Marketing Plan.** The Administrative Agent, the developer, the affordable housing sponsor, or the owner could be responsible for implementing the Affirmative Marketing Plan adopted by the City. This responsibility should be discussed with the Municipal Housing Liaison, Administrative Agent, and the developer, affordable housing sponsor, or owner at the first meeting. Affirmative marketing includes conducting regional outreach and advertising for available, e affordable units. Advertising costs have been delegated to the developer in accordance with the City’s adopted Affirmative Marketing Plan.
- **Accept applications from interested households.** Interested households will contact the Administrative Agent in response to marketing initiatives or by referral from the Municipal Housing Liaison. The Administrative Agent will supply applicants with

applications, provide additional information on available units, and accept completed applications.

- **Conduct a random selection of applicants for the rental of restricted units.** The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances and as described in the Operating Manual.
- **Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and household size and income changes.
- **Determine the eligibility of households.** Collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination of a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and maintain strict confidentiality of all information regarding that household. In addition, an Administrative Agent is required to ensure that all certified applicants execute a Disclosure Statement acknowledging the rights and requirements of renting an affordable unit.
- **Establish and maintain effective communication with property managers and landlords.** Property managers and landlords of restricted units should be instructed and regularly reminded that the Administrative Agent is their primary point of contact. The Administrative Agent must immediately inform all property managers and landlords of any changes to the Administrative Agent's contact information or business hours.

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

- Immediately upon learning that an affordable rental unit will be vacated.
- For review and approval of annual rental increases.
- **Provide annual notification of maximum rents.** Each year when DCA releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included in the notification if the tenant is overcharged.
- **Serve as the custodian of all legal documents.** An Administrative Agent is responsible for maintaining the originals of all legal instruments for the units in their portfolio. In addition, throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions, Restrictions, Deed Restrictions, Deeds, Recapture Mortgages and Recapture Mortgage Notes.
- **Serve as point of contact on all matters relating to affordability controls.** It is recommended that the Administrative Agent develop a system to be notified by lenders

when a unit is at risk of foreclosure. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the City's attorney's counsel on legal matters threatening the durability of the affordability controls.

- **Provide annual activity reports to Municipal Housing Liaison for use in the annual DCA monitoring report.** An Administrative Agent is responsible for collecting the reporting data on each unit in the Administrative Agent's portfolio.
- Maintain and distribute information on HUD-approved Housing Counseling Programs.

Responsibilities of the Affordable Housing Attorney

The Affordable Housing Attorney assists the City with developing, administrating, and enforcing affordability controls, including but not limited to the following:

- Assisting the Municipal Housing Liaison with reviewing the affordable housing provisions of any Master Deed and Public Offering for consistency with UHAC regulations before they are recorded and submitted to DCA for approval.
- Providing all reasonable and necessary assistance to support the Administrative Agent's efforts to ensure compliance with the housing affordability controls, including reviewing legal documents and legal actions required on foreclosures and violations.

Responsibilities of Developers

When a new affordable unit or series of units is in the planning process, the developer of affordable housing should contact the Municipal Housing Liaison, who shall coordinate a meeting with the Administrative Agent, where applicable, and the developer, affordable housing sponsor, or owner.

This initial meeting aims to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all related local ordinances- that have already been adopted by the City.

The Administrative Agent will secure from the developer written acknowledgment that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Responsibilities of Owners of Rental Affordable Rental Units

Open and direct communication between the Owners of affordable rental units, the Municipal Housing Liaison, and the Administrative Agent is essential to the ongoing administration of affordability controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental developments are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all the information required to complete the annual reporting.

Responsibilities of Landlords and Property Managers

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

AFFIRMATIVE MARKETING

Overview of the Requirements of an Affirmative Marketing Plan

All affordable units are required to be affirmatively marketed using the Affirmative Marketing Plan. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments to housing units which are being marketed by an Administrative Agent or a developer, sponsor, owner or property manager of affordable housing. The primary objectives of an Affirmative Marketing Plan are to target households who are least likely to apply for affordable housing and to target households throughout the entire housing region in which the units are located.

Every Affirmative Marketing Plan must include all of the following:

- Publication of at least one advertisement in a newspaper of general circulation within the housing region; and
- Broadcast at least one advertisement by radio or television throughout the housing region.
- At least one additional regional marketing strategy, such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with the major employer(s), or notification through community and regional organizations such as non-profit, religious, and civic organizations.

Online Advertising

Current rules designed to implement the “Fair Housing Act” require that the developer, owner, or Administrative Agent of affordable units affirmatively market their units through newspaper and radio. Digital marketing has not been explicitly required. To stay current with changes in technology and how the public searches for available housing, the owner, developer, property manager, or other administrative entity will be required to post rental units onto the NJHMFA’s Housing Resource Center (HRC) under P.L. 2020, c.51, effective November 1, 2020. Any affordable units listed for the first time, existing units that are expected to become available, and opened waitlists for current and future units must be listed on the HRC. All postings should include a link to an online fillable pre-application or downloadable application and information on how to obtain a paper application.

All advertising costs are the responsibility of the developer in accordance with the **City’s Affirmative Marketing Plan**. The Developer will be billed per project.

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

- The address of the project and development name, if any
- The number of rental units

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

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

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

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

- Last date applications will be accepted
- Contact number of the Municipal Housing Liaison, Administrative Agent, property manager, or landlord
- A statement concerning the availability of credit, budget, and homeownership counseling services
- If already adopted by ordinance, a statement concerning regional preference or veteran preference.
- “Visit www.njhrc.gov for more affordable housing opportunities.”

Implementation of the Affirmative Marketing Plan

The affirmative marketing process for affordable units shall begin at least four months before expected occupancy. In implementing the marketing program, the Administrative Agent shall undertake all of the strategies outlined in the Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month after that until all the units have been rented. The Administrative Agent shall market and advertise each project separately during each project’s initial affirmative marketing. Applications for affordable housing shall be available in several locations through the Affirmative Marketing Plan. The period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

The City of Summit has elected to create a single Applicant Pool for all applicants rather than maintaining separate lists for each affordable housing property. By re-randomizing the list each time a unit or group of units is available, everyone has a fair and equal chance at being

considered. The selection of applicants from the applicant pool is described in more detail in this manual under **The Random Selection Process**.

HOUSEHOLD CERTIFICATION

Before any household can rent or buy an affordable unit, the Administrative Agent must certify the household as eligible. Certification of a household involves verifying two critical pieces of data: 1) Household size and composition, including gender, and 2) The total income and assets for all household members over 18 years of age. The certification process begins with the applicant completing an application and providing the required backup documentation. Once eligibility documents and data have been collected, the Administrative Agent can start calculating the household's income.

Procedure for Income-Eligibility Certification

The Administrative Agent shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income. The household shall have twenty (20) days from the first notification to submit all required documents. Income verification documentation should include, but is not limited to, the following for every member of a household who is 18 years of age or older:

- Five (5) current consecutive pay stubs, including bonuses, overtime, or tips, or a letter from the employer stating the present annual income figure or, if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding two (2) tax years.
- A letter or appropriate reporting form verifying monthly benefits, such as
 - Social Security
 - Unemployment
 - Welfare or TANF
 - Disability or Worker's compensation
 - Pension income
- A notarized letter or statement verifying any other sources of income claimed by the applicant, such as alimony or child support.
- Three (3) consecutive months of statements for all savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks, or bonds.
- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Other documentation that may be necessary to fully document any other source of income.

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

Income

- Wages, salaries, tips, commissions
- Alimony
- Regularly scheduled overtime
- Pensions
- Social security
- Unemployment compensation
- TANF
- Verified regular child support
- Disability
- Net income from business or real estate
- Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
- Imputed interest (using a current average annual rate of two percent) from non-income-producing assets, such as equity in real estate. Rent from real estate is considered income after deducting any mortgage payments, taxes, and property owner's insurance.
- Rent from real estate is considered income
- Any other forms of regular income reported to the Internal Revenue Service

Not Income

- Income received on behalf of foster children
- Rebates or credits received under low-income energy assistance programs
- Food stamps
- Relocation assistance benefits
- Income of live-in attendants
- Scholarships
- Student loans
- Personal property such as automobiles, clothing, household items
- Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
- Part-time income of persons enrolled as full-time students
- Court-ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

Student Income

Only the time income from a full-time job held by a full-time student is considered income. A full-time student is a member of the household enrolled in a degree-seeking program for 12 or more credit hours per semester. Part-time income is a job of less than a 35-hour per week.

The Real Estate Asset Limit

If an applicant's primary residence, which is to be sold upon purchase of an affordable unit, has no mortgage debt and is valued at or above the regional asset limit as published annually by the

Affordable Housing Professionals of New Jersey with the Annual Regional Income Limits Chart (see Appendix A), the household must be determined ineligible for certification.

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

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

Before obtaining a professional appraisal, the applicant should review the property's tax appraisal and current market value and compare them to the asset limit to avoid unnecessary expenses. For instance, if homes are commonly sold in the applicant's neighborhood for over \$250,000, it is unlikely that an appraisal will determine a value below the asset limit. For example, the maximum asset limit for Region 5 in 2011 was \$149,004.

Income from Real Estate

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

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

Maximum Monthly Payments

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

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

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

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

Housing Counseling

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

The Applicant Interview

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

- Confirm and update all information provided on the application.
- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse, and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.
- Review the applicant's identification and financial information and documentation, ask questions to clarify the application information, 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).

In addition, the applicant must give a written certification as to whether any household member did or did not dispose of any assets for less than the fair market value during the past two years.

Approving or Rejecting a Household

Administrative Agents must notify applicant households of their eligibility within twenty (20) days of the Administrative Agent's determination. Households with a verified total household income that exceeds 80 percent of the current Regional Income Limit (Appendix A) for the appropriate family size are ineligible to buy or rent an affordable unit. A letter rejecting the household's application shall be mailed or emailed to the household.

Similarly, households with a verified total household income that is within the income limits but too low to afford any of the units administered by the Administrative Agent shall be sent a letter rejecting the household's application and/or referring them to housing counseling.

Households with a verified total household income of less than 80 percent shall be issued a letter certifying eligibility. This certification is valid for 180 days. If the Administrative Agent cannot place the household in a restricted unit after 180 days, an extension may be granted once the household's eligibility is verified.

Once the applicant is certified and matched to an available unit, the Administrative Agent must secure from the applicant a signed and notarized acknowledgment of their requirements and responsibilities in renting a restricted unit. In addition, UHAC's Disclosure Statement shall be forwarded to the applicants.

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

Dismissal of Applications

Applications can be dismissed for one or more of the following reasons:

- The application is not signed or submitted on time.
- The applicant commits fraud, or the application is not truthful or complete.
- The applicant cannot or does not provide documentation to verify their income or other required information when due.
- The household income does not meet a particular property's minimum or maximum income requirements.
- The applicant owns assets that exceed the Asset Limit.
- The applicant fails to respond to any inquiry in a timely manner.
- The applicant is non-cooperative or abusive with the staff, property manager, or landlord.

- The applicant changes address or other contact information without informing the Administrative Agent in writing.
- The applicant does not meet the credit standard or other requirements set forth by managers of rental properties.
- The applicant fails to verify attendance in a credit counseling program when required to do so by the program rules.
- The applicant does not promptly respond to periodic update inquiries.
- The applicant fails to sign the Compliance Certification, Certificate for Applicant, and Lease Document, as may be required.
- The applicant, once approved, fails to sign the lease promptly.

Applicants will also be removed from the City's applicant pool once approved for an affordable unit. However, these applicants may re-apply for other opportunities in that City once they have occupied their unit.

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

Applicants are not automatically removed from the applicant pool if they do not respond to a Notice of Availability.

RESALE OF AFFORDABLE OWNERSHIP UNITS

When an Owner of a restricted unit wishes to sell, the sale must be processed through the Administrative Agent to ensure appropriately sized income-eligible household purchases the unit and maintains the affordability controls. At the initial date of purchase, the Owner makes a certification regarding their understanding of this requirement.

Typically, the resale process begins when an Owner inquires about their unit's maximum resale price (MRP). At that time, the Administrative Agent provides the Owner with a "Notice of Intent to Sell" form and the written "Resale Procedures for Owners Wishing to Sell an Affordable Unit."

Once the Owner/Seller returns the completed "Notice of Intent to Sell" form, the Administrative Agent will assess any eligible capital improvements and calculate the final MRP. The MRP is computed using the Resale Price Calculator, updated annually by the Affordable Housing Professionals of New Jersey (www.ahpnj.org).

The Administrative Agent uses the current applicant pool and conducts a random selection of the entire pool. Using the process described in **Matching Households with Available Units** section of this manual, the Administrative Agent will identify a candidate to purchase the available unit. Information on the available unit will be shared with the candidate. If the candidate is interested in the unit, they will be instructed to contact a mortgage lender for a pre-qualification and to contact the Owner/Seller to view the unit.

If the Seller and Buyer agree on a sale price (not to exceed MRP) and other terms of the sale, they will be encouraged to sign a contract of sale. The Buyer will then be required to complete the full income eligibility application according to the process described in the **Household Certification** section of this manual. Simultaneously, the Buyer will be instructed to secure a permanent mortgage to purchase the unit.

The Buyer will be instructed to obtain an appraisal of the property with a market rate value. This value will be used to determine the recapture amount that is used in the Recapture Mortgage Note.

The Administrative Agent ensures that the Deed, Recapture Mortgage, Recapture Mortgage Note, and Disclosure Statement form are submitted as part of the closing package to the closing agent. The closing agent will be instructed to record the Deed and Recapture Mortgage immediately after closing. The Recapture Mortgage will be filed immediately behind the Buyer's permanent mortgage.

VIOLATIONS, DEFAULTS, AND REMEDIES

In the event of a threatened breach of any of the regulations governing the affordable unit by an Owner of a rental development, the Administrative Agent shall have all the remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it is recognized by both parties that it will cause irreparable harm to the City, in light of the public policies outlined in the Fair Housing Act and the obligation for the provision of low- and moderate-income housing.

Upon the occurrence of a breach of any of the regulations governing the affordable units by an Owner of a rental development, the City shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the rules, the entry on the premises, and specific performance.

Appeals

Appeals from all decisions of an Administrative Agent shall be made in writing to the Commissioner of the Executive Director of the NJ Housing Mortgage and Finance Agency:

NJ HMFA
Executive Director
637 South Clinton Avenue
P.O. Box 18550
Trenton, NJ 08625

The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action.

MAINTENANCE OF RECORDS AND APPLICANT FILES

Pursuant to NJAC 5:80-26.14(a)8, NJAC 5:80-26.15(c), and NJAC 5:80-26.17, current records must be maintained by the Administrative Agent, and outdated documents must be given to the City for safe-keeping. A file must be created and held on each restricted unit for its control period.

Administrative Agents maintain detailed records on all marketing initiatives.

Files To Be Maintained on Every Applicant

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

- Application Form and all Source Documents
- Tenant Information Form
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility

Files To Be Maintained on Every Unit

The Administrative Agent will maintain files on every unit for the length of the affordability controls. The unit file will contain, at a minimum:

- Base rent
- Identification as low- or moderate-income
- Description of the number of bedrooms and physical layout
- Floor plan
- Application materials, verifications, and certifications of all present owners, pertinent correspondence
- Copy of lease
- Disclosure Statement

Files to Be Maintained on Every Project

The Administrative Agent will maintain files on every project for the length of the affordability controls. The project file will contain, at a minimum:

- Condominium Master Deed
- Condominium Public Offering
- Crediting Information
- Original deed restriction
- Affordability control documents, including Declarations of Covenants, Conditions, and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes, Disclosure Statement

Files To Be Maintained on The Applicant Pool

- Any changes to the applicant pool
- Any action taken with regard to the applicant pool
- Any activity that occurs that affects a particular applicant
- Current information for all preapplicants whose status is active in the applicant pool

Monitoring

The information required for each unit includes but is not limited to the following:

- A Recorded Deed for each project
- Street Address
- Block/Lot/Qualifier/Unit Number
- Housing Type
- Income: Very Low/Low/Moderate
- Initial Rental Price
- % of affordability
- Bedroom Type
- Age-restricted
- Handicap accessible/adaptable
- Date of Certificate of occupancy
- Effective date of affordability controls
- Length of affordability controls (years)
- Date Affordability controls removed

Attachment A

Income Limits

Attachment B

City of Summit Pre-Application

Attachment C

City of Summit Full Application