

Township of Plainsboro  
County of Middlesex

Ordinance No. 26-02

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 3 OF THE CODE OF THE TOWNSHIP OF PLAINSBORO ENTITLED “AFFORDABLE HOUSING” TO CONFORM TO THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS**

**WHEREAS**, on March 20, 2024, Governor Murphy signed P.L.2024, c.2. into law, which amended the Fair Housing Act (“Amended FHA”) and established a new framework for determining and enforcing municipalities’ affordable housing obligations under the New Jersey Supreme Court’s Mount Laurel doctrine; and

**WHEREAS**, on November 20, 2025, the Department of Community Affairs, Division of Local Planning Services, adopted revisions to N.J.A.C. 5:99-1.1, *et seq.*, which provided revised rules for the implementation of the Amended FHA; and

**WHEREAS**, on December 15, 2025, the Department of Community Affairs, New Jersey Housing and Mortgage Finance Agency, adopted revisions to N.J.A.C. 5:80-26.1, *et seq.*, also known as the Uniform Housing Affordability Controls (“UHAC”), which are also designed to implement the Amended FHA; and

**WHEREAS**, consistent with the newly-established process, on January 24, 2025, the Township of Plainsboro (the “Township”) filed timely a Declaratory Judgment Action in the Superior Court, Middlesex County, captioned In the Matter of the Application of the Township of Plainsboro, Docket No. MID-L-000494-25 (the “Declaratory Judgment Action”), seeking court approval of its compliance with its affordable housing obligation for the Fourth Round, conditioned on the adoption of a Fourth Round Housing Element and Fair Share Plan; and

**WHEREAS**, on June 16, 2025, the Plainsboro Township Planning Board adopted a Housing Element and Fair Share Plan (“HEFSP”) by way of resolution, which was endorsed by the Township Committee of the Township of Plainsboro (the “Township Committee”) on June 25, 2025 by way of resolution No. 25-155, in compliance with the Fair Housing Act and Administrative Directive #14-24 and pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*; and

**WHEREAS**, on June 25, 2025, the Township filed its HEFSP; and

**WHEREAS**, on August 31, 2025, FSHC filed a “challenge” letter pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Township’s HEFSP and sought additional information and documentation; and

**WHEREAS**, no other interested-party filed a challenge or any other communication; and

**WHEREAS**, on January 28, 2026, the Township entered into a Consent Order with Fair Share Housing Center (“FSHC”), authorized by the Township Committee by way of Resolution No. 26-45; and

**WHEREAS**, the Consent Order was approved and signed by the Court on February 18, 2026; and

**WHEREAS**, adoption of the HEFSP and Consent Order, as well as the Department of Community Affairs' adoption of the new administrative rules, require certain changes to the Township's affordable housing ordinance; and

**WHEREAS**, the Township Committee now wishes to effectuate those changes through the adoption of a new affordable housing ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Plainsboro, Middlesex County, New Jersey, that Chapter 3 of the Code of the Township of Plainsboro, entitled "Affordable Housing," is hereby repealed in its entirety, and replaced with the following:

**§ 3-1 Purpose.**

The purpose of this chapter is to provide for and regulate affordable housing in the Township of Plainsboro.

**§ 3-2 Definitions.**

The following terms when used in this chapter shall have the meanings given in this section:

**ACT**

The Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

**ADAPTABLE**

Constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c.350 (C.52:27D-123.15).

**ADMINISTRATIVE AGENT**

The individual or entity responsible for administering the affordability controls of N.J.A.C. 5:80-26.1, *et seq.* with respect to specific restricted units, as designated pursuant to N.J.S.A. 52:27D-321, N.J.A.C. 5:80-26.15 and 5:99-7

**AFFIRMATIVE MARKETING**

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

**AFFORDABILITY AVERAGE**

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

**AFFORDABLE**

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

**AFFORDABLE HOUSING PROGRAM(S)**

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

**AFFORDABLE UNIT or AFFORDABLE HOUSING UNIT**

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

#### **AFFORDABLE HOUSING TRUST FUND**

A non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the "Neighborhood Preservation Nonlapsing Revolving Fund" and "Balanced Housing" mean the AHTF.

#### **AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and intended exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit.

#### **AGENCY**

The New Jersey Housing and Mortgage Finance Agency established pursuant to P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 through 44) and in, but not of, DCA.

#### **ALTERNATIVE LIVING ARRANGEMENTS**

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

#### **ASSISTED LIVING RESIDENCE**

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

#### **CERTIFIED HOUSEHOLD**

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

#### **CHOICE**

The no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

#### **COAH**

The Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

#### **COMPLIANCE CERTIFICATION**

The certification issued to a municipality by the Dispute Resolution Program or by a county-level housing judge pursuant to section 3 at P.L. 2024, c. 2, that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next affordable housing round begins, which is also known as a "judgment of compliance" resulting in an "order for repose." The term "compliance certification" includes a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).

#### **CONTINUUM OF CARE or COC**

One of the 16 local planning bodies in New Jersey that coordinate service providers and other interested parties to prevent and end homelessness, as authorized by subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11431 through 11435.

#### **COUNTY-LEVEL HOUSING JUDGE**

A judge appointed pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements with the Act.

#### **DCA or DEPARTMENT**

The State of New Jersey Department of Community Affairs.

#### **DEVELOPER**

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

#### **DEVELOPMENT**

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

#### **DISPUTE RESOLUTION PROGRAM**

The Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

#### **DIVISION**

The Division of Local Planning Services in DCA.

#### **FAIR SHARE PLAN**

The plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of

unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

**HOUSEHOLD INCOME**

A household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

**HOUSING ELEMENT**

The portion of a municipality's master plan required by the Municipal Land Use Law ("MLUL") at N.J.S.A. 40:55D-28.b(3) and the Act, consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which sets forth the municipal present and prospective obligation for affordable housing, determined pursuant to N.J.S.A. 52:27D-304.1.f.

**HOUSING REGION**

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

**INCLUSIONARY DEVELOPMENT**

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

**LOW-INCOME HOUSEHOLD**

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

**LOW-INCOME UNIT**

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

**MARKET-RATE UNIT**

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

**MODERATE-INCOME HOUSEHOLD**

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

**MODERATE-INCOME UNIT**

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

**MONI**

The no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

**MUNICIPAL HOUSING LIAISON OR MHL**

An appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

**MUNICIPAL HOUSING TRUST FUND**

A separate, interest-bearing, account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and as governed at N.J.A.C. 5:99-2.

**NEW JERSEY HOUSING RESOURCE CENTER OR HOUSING RESOURCE CENTER**

The online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

**NONEXEMPT SALE**

Any sale or transfer of ownership to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary; and the transfer of ownership by court order.

**PERMANENT SUPPORTIVE HOUSING**

A range of permanent housing options such as apartments, condominiums, townhouses, single and multi-family homes, single room occupancy housing, shared living and supportive living arrangements that provide access to on-site or off-site supportive services for individuals and families who can benefit from housing with services.

**PRIOR ROUND UNIT**

A housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round 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; (3) 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, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) 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 the fourth round of affordable housing obligations, whichever occurs sooner; and (2) 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.

### **RANDOM SELECTION PROCESS**

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

### **REGIONAL ASSET LIMIT**

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

### **REGIONAL MEDIAN INCOME**

The median income by household size for an applicable housing region, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

### **REHABILITATION**

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

### **RENT**

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

### **RESTRICTED UNIT**

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

### **SPECIAL NEEDS HOUSING PROJECT**

A housing development, or such portion of a housing development, that is permanent supportive housing or a community residence that is primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence, together with any structures or facilities, appurtenant or ancillary thereto, and shall include the planning, development, acquisition, construction and rehabilitation of structures, and residences undertaken by a project sponsor for such purposes, including the cost of land and structures, construction, rehabilitation or any interest therein.

### **TRANSITIONAL HOUSING**

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 the department; and allows households to remain for a minimum of six months.

### **UHAC**

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

### **UHORP**

The Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

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

### **§ 3-3 Applicability.**

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

### **§ 3-4 Mandatory Set-Aside.**

Mandatory provision of affordable housing. All development, other than exempted development, shall provide for affordable housing through actual construction.

- A. Any future development of five (5) or more residential units, at six (6) dwelling units per acre or greater, in the Township developed through planning board approval, zoning board approval, redevelopment or a rehabilitation plan requires an affordable housing set aside of at least 20% of all units, with at least 50% of the restricted units in each development being affordable to low-income households, including 13% to very low-income households. All such affordable units, including the required bedroom distribution, shall be governed by controls on affordability and affirmatively marketed in conformance with UHAC, N.J.A.C. 5:80-26.1, *et seq.* or any successor regulation, and all other applicable law.
- A. Any proposed development located in the PMUD zone shall adhere to the set aside requirements pursuant to §101-137.
- B. Affordable housing units may be constructed on a site which is not contiguous and may be incorporated with other development subject to the applicable zoning district requirements.
- C. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Plainsboro Township to grant such rezoning, variance or other relief.
- D. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

### **§ 3-5 Inclusionary Zoning.**

- A. To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be utilized to provide a realistic opportunity for affordable housing at

densities and set-asides consistent with the Township's adopted Housing Element and Fair Share Plan, applicable settlement agreements, court orders, and the law.

B. In inclusionary developments the following phasing schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
No more than 10 percent	1 affordable unit
No more than 25 percent of market units plus 1	25 percent of affordable units
No more than 50 percent of market units	50 percent of affordable units
No more than 75 percent of market units	75 percent of affordable units
No more than 90 percent of market units	100 percent of affordable units

§ 3-6 through § 3-7. **(Reserved)**

§ 3-8 **Alternative living arrangements.**

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, as applicable.
- B. The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 3-9 **New construction.**

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

- A. For the purposes of determining affordability averages and bedroom distributions, all restricted units within any single-family development in a municipality are treated as one scattered-site affordable development. This treatment affects only the calculations of affordability and bedroom counts for single-family developments, is not to be construed to require that the restricted units be developed or administered as one scattered-site affordable development, and does not affect multifamily developments.
- B. For the purposes of determining affordability averages and bedroom distributions, unless stated otherwise, non-integer values calculated pursuant to this subsection are to be rounded up to the nearest whole number. However, non-integer values calculated pursuant to (D)3, (D)4, (D)5, (F)2, (F)3, or (F)5 below may be rounded down or up to the nearest whole number in either direction. For example, 33.1901 will typically be rounded up to 34, but may be rounded down to 33 or up to 34 if calculated pursuant to (D)3, (D)4, (D)5, (F)2, (F)3, or (F)5 below.
- C. The average rent for all restricted units within each affordable development is affordable to households earning no more than 52 percent of median income;
- D. Unless otherwise approved pursuant to (K) below, in each affordable development, restricted units that are not age-restricted or supportive housing must be structured in conjunction with realistic market demands such that:
  - (1) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;

(2) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;

(3) No more than 20 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are efficiency or one-bedroom units;

(4) At least 30 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are two-bedroom units;

(5) At least 20 percent of all restricted units, rounded up or down to the nearest whole number in either direction, are three-bedroom units; and

(6) The remainder of the restricted units, if any, are allocated at the discretion of the developer in accordance with the municipality's housing element and fair share plan.

E. Unless otherwise approved pursuant to (K) below, in each affordable development, restricted units that are age restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangement, must be structured, such that, at a minimum, the number of bedrooms within the restricted units equals the number of restricted units. For example, the standard may be met by creating a two bedroom unit for each efficiency unit. In 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.

F. Unless otherwise approved pursuant to (K) below, 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:

(1) At least 50 percent of all restricted units are low-income or very-low-income units;

(2) 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;

(3) 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;

(4) At least 50 percent of all restricted three-bedroom units are low-income units or very-low-income units;

(5) 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

(6) 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.

G. For the purposes of determining bonus credits pursuant to N.J.S.A. 52:27D-311k(5), the minimum number of three-bedroom units required pursuant to this subchapter 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.

- H. In determining the initial rents and initial sale prices for compliance with the affordability average requirements for restricted units other than age-restricted units and assisted living facilities, the following standards apply:
- (1) An efficiency unit is affordable to a one-person household;
  - (2) A one-bedroom unit is affordable to a one-and-one-half-person household;
  - (3) A two-bedroom unit is affordable to a three-person household;
  - (4) A three-bedroom unit is affordable to a four-and-one-half-person household;
- and
- (5) A four-bedroom unit is affordable to a six-person household.
- I. For age-restricted units and assisted living facilities, the following standards apply:
- (1) An efficiency unit is affordable to a one-person household;
  - (2) A one-bedroom unit is affordable to a one-and-one-half-person household; and
  - (3) A two-bedroom unit is affordable to a two-person household or to two one-person households.
  - (4) A three-bedroom unit is affordable to a two-and-one-half-person household.
- J. The provisions of this section, do not apply to affordable developments financed pursuant to UHORP, MONI, or CHOICE or to assisted living residences, each of which must comply with applicable Agency rules.
- K. The requirements of (D), (F), and (H) above must be satisfied by all restricted units in the municipality, considered in the aggregate. The individual requirements of (D), (F), and (H) above may be waived or altered for a specific affordable development with written approval from the Division if such waiver or alteration would not result in a material deviation from the municipal housing element and fair share plan. Waivers approved by the Division must be published on a public webpage within thirty (30) days of approval. Any waiver or alteration that would result in a material deviation from the municipal housing element and fair share plan must receive written approval from the Dispute Resolution Program or, if the municipality does not participate in the Dispute Resolution Program, from a county-level housing judge.
- L. Accessibility requirements.
- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7, and all applicable accessibility requirements.
  - (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
    - (a) An adaptable toilet and bathing facility on the first floor.
    - (b) An adaptable kitchen on the first floor.
    - (c) An interior accessible route of travel on the first floor.
    - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor.

- (e) If not all of the foregoing requirements in Subsection L(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection L(2)(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Plainsboro has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
- [1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - [2] To this end, the builder of restricted units shall deposit funds within the Township of Plainsboro's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
  - [3] The funds deposited under Subsection L(2)(f)[2] above shall be used by the Township of Plainsboro for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - [4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Plainsboro for the conversion of adaptable to accessible entrances.
  - [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - [6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

#### M. Design.

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

#### N. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, specifically, N.J.A.C. 5:80-26.4, 26.6, 26.7, and 26.13, as may be amended and supplemented, utilizing the regional income limits established by the New Jersey Housing and Mortgage Finance Agency or applicable State agency.

- (2) The average rent for all restricted rental units within each affordable development shall be affordable to households earning no more than 52 percent of regional median income.
- (3) The maximum rent for all restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of regional median income, except as permitted where an enhanced very low-income set aside is provided in accordance with N.J.A.C. 5:80-26.4.
- (4) The developers and municipal sponsors of restricted rental units shall establish at least one rent for each bedroom count for very low-income, low-income, and moderate-income units, provided that at least 13 percent of all restricted units within the municipality are affordable to very low-income households.
- (5) At least 50 percent of the restricted rental units in each affordable development shall be affordable to low-income households, and at least 13 percent of all restricted rental units shall be affordable to very low-income households, consistent with N.J.S.A. 52:27D-329.1 and N.J.A.C. 5:80-26.4.
- (6) At least 50 percent of the restricted ownership units in each affordable development shall be affordable to low-income households, and at least 13 percent of all restricted ownership units shall be affordable to very low-income households.
- (7) The maximum sale price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of regional median income, and each affordable development must achieve an affordability average of no more than 55 percent of 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.
- (8) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), together with taxes, homeowner and private mortgage insurance, and condominium or homeowner association fees, does not exceed 28 percent of the eligible monthly income of the appropriate household size, subject to the affordability average requirements of UHAC.
- (8) The resale price of restricted ownership units and increases in rents of restricted rental units shall be determined in accordance with UHAC.
- (9) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, subject to the affordability average requirements of UHAC. Rent increases shall be determined consistent with UHAC, specifically N.J.A.C. 5:80-26.13.
- (10) Tenant paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by the New Jersey Department of Community Affairs for its Section 8 program or other applicable guidance.

### § 3-10 Affirmative Marketing Requirements.

- A. The Township of Plainsboro shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Affordable Housing Dispute Resolution Program or applicable agency, that is compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy is to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for “housing for older persons” as permitted by law), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, and shall be intended to reach potentially eligible households that are least likely to apply for the units.
- C. The administrative agent is responsible for the affirmative marketing of affordable units, as provided in UHAC, specifically N.J.A.C. 5:80-26.16, and this section. The municipality may designate a qualified municipal staff person approved by the State to serve as administrative agent for this purpose, or it may contract with one or more experienced administrative agents approved by the State.
- D. The Affirmative Marketing Plan and all advertisements for affordable units shall contain the information required by UHAC, specifically, N.J.A.C. 5:80-26.16(d). The Affirmative Marketing Plan must identify specific strategies and mediums that will be used to advertise available housing units in the region in accordance with the goals and purposes stated in N.J.A.C. 5:80-26.16(a), and must include the categories of information outlined at N.J.A.C. 5:80-26.16(e).
- E. In implementing the affirmative marketing program, the administrative agent shall:
  - (1) Post a listing of available affordable housing units on the New Jersey Housing Resource Center at least sixty (60) days before the random selection process or lottery for such units, in accordance with applicable statutes and UHAC.
  - (2) Within one business day of listing the affordable housing units on the New Jersey Housing Resource Center, notify the local Continuum of Care of any supportive housing rental units that are reserved for individuals and families that are homeless and of any permanent supportive housing rental units.
  - (3) Publish at least one advertisement in a regional print or digital newspaper.
  - (4) Advertise the units on at least one housing search website, in addition to the Housing Resource Center.
  - (5) Undertake at least two additional regional marketing strategies using the sources listed in the Affirmative Marketing Plan, with at least one non-digital strategy if the newspaper advertisement was in print, or with at least two non-digital strategies if the newspaper advertisement was digital.
  - (6) Designate an experienced staff person to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Alternatively, the administrative agent or municipality may contract with a HUD-certified housing counselor or an otherwise experienced entity approved by the Division to provide such counseling services.
- F. The affirmative marketing process shall be carried out consistent with N.J.A.C. 5:80-26.16, and the administrative agent shall comply with all provisions of the Fair Chance in Housing Act, N.J.S.A. 46:8-52 through 64.

- G. The Municipal Housing Liaison shall monitor the implementation of the affirmative marketing plan by each administrative agent and developer and shall report on affirmative marketing activities in any required municipal monitoring reports.

**§ 3-11 Random Selection Process and Occupancy Preference.**

- A. Pursuant to pursuant N.J.A.C. 5:80-26.17(k), the administrative agent shall use a random selection process when referring household to affordable units. The random selection process may occur before or after household income certification. If conducting the random selection following household certification, the administrative agent shall notify all applicants of their eligibility or ineligibility in advance of the random selection. The random selection process may consider certain factors listed in N.J.A.C. 5:80-26.17(k)(1) to filter and/or rank the applicant pool. The factors must be determined in advance of the random selection, and the affirmative marketing must disclose those factors.
- B. As permitted by N.J.A.C. 5:80-26.17(k)(2), the Township adopts the following occupancy preferences for the random selection process:
- (1) A preference of up to 50 percent of the restricted rental units in a particular project for very-low-, low-, and moderate-income veterans, as permitted by law and UHAC.
- C. No residency preference limited solely to the municipality shall be used unless expressly permitted by statute, UHAC, and any applicable court order or mediation agreement.

**§ 3-12 Occupancy Standards.**

- A. Prior round units whose siting and creation are consistent with a prior round development or zoning designation that received COAH or court approval on or before June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner, are not subject to the requirements detailed in this subsection. Rather, those prior round units remain subject to the applicable grant of substantive certification, judgment of compliance, grant agreement, or other contract, or, if the prior round units are not subject to any grant of substantive certification, judgment of compliance, grant agreement, or other contract, remain subject to N.J.A.C. 5:80-26.3(f) as it was in effect prior to December 20, 2024.
- B. Developments approved as part of a compliance certification or that otherwise contain restricted units subject to the UHAC regulations shall satisfy the following occupancy standards:
- (1) For any 100-percent affordable development comprising one or more restricted units:
- (a) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the applicable municipal code or the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4, whichever provides the greater minimum square footages;
- (b) Each bedroom in each restricted unit must have at least one window; and
- (c) Restricted units must include adequate air conditioning and heating.
- (2) For developments comprising market-rate rental units and restricted rental units:

- (a) Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes;
  - (b) Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations;
  - (c) Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services;
  - (d) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
  - (e) Restricted units must include adequate air conditioning and heating and, if market-rate units provide cooling and heating, restricted units must use the same type of cooling and heating sources as market-rate units of the same unit type;
  - (f) Each bedroom in each restricted unit must have at least one window;
  - (g) Restricted units must be of the same unit type as market-rate units within the same building; and
  - (h) Restricted units must be of at least the same size as the most common market-rate unit(s) of the same type and bedroom count within the same development, but under no circumstances shall any restricted unit or bedroom be less than 90 percent of the minimum size prescribed by the applicable municipal code or Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4, whichever prescribes the greater minimum size
- (3) For developments containing for-sale units, including those with a mix of rental and for-sale units, subsection (B)(2) above shall govern the rental units, while for-sale units shall adhere to the following:
- (a) Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, single-family home), except that restricted units and market-rate units may use different interior finishes;
  - (b) Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations;
  - (c) Restricted units may be of different housing product types than market-rate units, provided that developments containing market-rate townhomes or single-family homes offer restricted housing options that also include townhomes or single-family homes;

- (d) Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the applicable municipal code or the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4, whichever provides the greater minimum square footages;
- (e) Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s);
- (f) Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits;
- (g) Each bedroom in each restricted unit must have at least one window; and
- (h) Restricted units must include adequate air conditioning and heating.

**§ 3-13 Control periods for restricted ownership units and enforcement mechanisms.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.6, as may be amended and supplemented. Each restricted ownership unit shall remain subject to the requirements of this Ordinance until the municipal obligation to maintain controls under UHAC has expired.
- B. The deed restriction and mortgage lien securing the affordability controls for restricted ownership units shall be in the form required by UHAC and shall be recorded consistent with UHAC.
- C. The administrative agent shall have the responsibility to ensure that all affordability controls required by UHAC and this Ordinance are properly executed, and shall monitor compliance of same.
- D. Any and all enforcement mechanisms shall be in accordance with UHAC.

**§ 3-14 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees, and Resale Prices.**

- A. Price restrictions and resale prices for restricted ownership units shall be governed by N.J.A.C. 5:80-26.6 and 26.7, as may be amended and supplemented.
- B. Homeowner association fees for restricted ownership units shall be determined by N.J.A.C. 5:80-26.7, as may be amended and supplemented. The administrative agent shall approve homeowner association fee schedules to ensure that affordability is maintained.
- C. The administrative agent shall establish resale prices for restricted ownership units based upon the formula required by UHAC and this Ordinance.

**§ 3-15 Capital Improvements and Maintenance of Restricted Ownership Units.**

- A. Prior to incurring any indebtedness, the owner of a restricted ownership unit shall seek review and approval of the proposed the capital improvements from the administrative agent pursuant to N.J.A.C. 5:80-26.9.

- B. Eligible capital improvements and treatment of capital improvement costs in calculating resale prices shall be as set forth in UHAC and this Ordinance.
- C. Upon the first transfer of title that follows the expiration of the applicable deed-restricted control period provided, if requested by the administrative agent, the owner of a restricted ownership unit shall obtain a Continuing Certificate of Occupancy or a certified statement from the municipal building inspector stating that the unit meets all code standards.

**§ 3-16 Control Periods for Restricted Rental Units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented. Each restricted rental unit shall remain subject to the requirements of this Ordinance until the municipal obligation to maintain controls under UHAC has expired.

**§ 3-17 Rent Restrictions for Restricted Rental Units.**

- A. Rent restrictions for restricted rental units shall be governed by N.J.A.C. 5:80-26.13, as may be amended and supplemented.
- B. Annual increases in rents shall be consistent with UHAC, applicable settlement agreements, court orders, and the law.
- C. The administrative agent shall annually review and approve proposed rent increases for restricted rental units.

**§ 3-18 Tenant Income Eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.14 and 26.16, as may be amended and supplemented, and shall be determined as follows:
  - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of regional median income.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of regional median income.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than or equal to 80 percent of regional median income.
- B. Pursuant to N.J.A.C. 5:80-26.14, the administrative agent shall certify a household as eligible for a restricted rental unit when the household satisfies income eligibility requirements, and the proposed rent does not exceed applicable affordability standards.

**§ 3-19 Administration.**

- A. The position of Municipal Housing Liaison for the Township of Plainsboro is established by this Ordinance. Plainsboro shall appoint a specific municipal employee to serve as a Municipal Housing Liaison by way of resolution of the Township Committee, who shall be a full- or part-time employee. The appointed employee shall be duly qualified to serve in the position and shall meet all training requirements prior to assuming the duties of Municipal Housing Liaison. The Municipal Housing Liaison shall be identified by name and title on the Township's website.

- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Plainsboro, including but not limited to:
- (1) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, administrative agents, and interested households;
  - (2) Overseeing the monitoring of and reporting on the status of all proposed and completed affordable housing programs and affordable units in Plainsboro's Housing Element and Fair Share Plan;
  - (3) Overseeing and monitoring administrative agents within the Township's jurisdiction to ensure compliance with the UHAC;
  - (4) 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 Township at all times;
  - (5) Verifying, certifying, and providing monitoring and reporting information within the Affordable Housing Monitoring System at such time and in such form as the Division or court requires; and
  - (6) Coordinating meetings with affordable housing providers, developers, municipal officials, and administrative agents, as applicable.
- C. Plainsboro shall appoint one or more administrative agents by way of resolution of the Township Committee.
- D. The administrative agent shall be responsible for the administration and enforcement of the affordability controls set forth in UHAC and this Ordinance. The primary responsibility of the administrative agent is to ensure that the restricted units under administration are sold or rented, as applicable, only to very-low-, low-, and moderate-income households. Actions taken by the administrative agent are reviewable by the Municipal Housing Liaison pursuant to N.J.S.A. 52:27D-321. The administrative agent shall be identified by name and title on the Township's website.

### § 3-20 Enforcement of Affordable Housing Regulations.

- A. 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. Pursuant to N.J.A.C. 5:99-6.2, such oversight activities include ensuring that administrative agents execute the practices, procedures, and standards set forth in UHAC and this Ordinance.
- B. The provisions of this Ordinance shall be enforceable by the municipality, the State, or any other party entitled by law to enforce affordable housing controls, in accordance with UHAC, the Fair Housing Act, and applicable case law.
- C. A violation of the requirements of this Ordinance, including but not limited to failure to file required reports, failure to comply with affirmative marketing requirements, or unauthorized transfer or rental of a restricted unit, shall be subject to enforcement action, which may include legal or equitable relief, fines, or other remedies as authorized by law.
- D. The municipality may, to the extent permitted by law, pursue any remedies available at law or in equity to enforce the provisions of this Ordinance, UHAC,

and any deed restriction or mortgage instrument used to secure affordability controls.

**§ 3-21 Appeals.**

Appeals from all decisions of an administrative agent appointed pursuant to UHAC and this Ordinance must be filed, in writing, with the municipal housing liaison for the Township. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action."

**SECTION II: Repealer, Severability, Applicability, Effective Date**

- (a) All ordinances or parts thereof which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.
- (b) In the event any section, clause, sentence, phrase or provision of this Ordinance is declared unconstitutional, unenforceable, or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance, and the Ordinance shall be interpreted consistent with its original intent to the fullest extent permissible by law.
- (c) This Ordinance shall become effective immediately upon adoption and publication in the manner prescribed by law.

Introduced at a Meeting of the Township Committee of the Township of Plainsboro on **January 28, 2026** and Published on **February 2, 2026**. Adopted at a Meeting held on **February 25, 2026** and Published on **March 03, 2026**.