



"Emergency" Amendments to UHAC Significantly Alter Affordable Housing Landscape Ahead of Fourth Round

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On December 19, 2024, the New Jersey Housing and Mortgage Finance Agency released "emergency" revisions to the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, which represent a sweeping change to the established affordable housing development landscape. Instead of being strictly limited to the updates required by the recent updates to the Fair Housing Act, these revisions are far more extensive. As of this writing, it does not appear the regulations have been proposed for notice and comment under the standard procedures pursuant to New Jersey's Administrative Procedures Act. A copy of those regulations are available [here](#).

These new "emergency" rules went into effect immediately and will apply to any project not part of an existing Third Round settlement. There is no express grandfathering provision allowing projects that were approved as of December 19, 2024, much less those that were administratively complete, to continue to comply with the former UHAC regulations. Accordingly, all New Jersey developers should be aware of these changes and be sure to incorporate them into their pipeline of proposed inclusionary projects. The below is meant only as a summary of the high-level changes.

Among the changes are the following:

- Unit mixes and bedroom distribution are changed. At minimum, the number of bedrooms must be at least twice the number of restricted units. At least 50 percent of every bedroom level must be affordable to low- and very low-income households. Average income within the restricted units remains at 52 percent.
- Unit size is now regulated, through reference to the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4, setting minimum sizes for each unit and bedroom

type ranging from 550 square feet for a studio to 1,150 square feet for a three-bedroom unit.

- The phasing and construction schedule from the Council on Affordable Housing's Second Round Rules was incorporated.
- Materials for construction of affordable units (plumbing, construction, and siding) are required to be the same as those for market rate units, though interior finishes may be different.
- Operating costs, which include costs for move-in, move-out, and on-site parking, are now expressly included within the permitted rent limitations. Effectively, this means that affordable units are required to have parking available and included with the rent.
- Minimum controls for affordable rental units is now a minimum of 40 years from the date of the issuance of the first certificate of occupancy. In a noted change from the prior version of UHAC, the release no longer will require the affirmative act of the municipality to terminate the controls, and instead the controls may release based on their own language after the control period.
- Any extension of controls for existing units must be purchased, at minimum values set forth in the regulations, and such extensions shall not last cumulatively less than 60 years. UHAC also purports to expressly provide for and permit the parallel extension of any financial agreements made to a residential inclusionary project.

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