

North Brunswick Twp

(1985)

Draft - Affordable Housing Ordinance

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AFFORDABLE HOUSING ORDINANCE

Prepared for the
NORTH BRUNSWICK TOWNSHIP MAYOR AND COUNCIL
by
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Section I. Short Title.

This Ordinance shall be known and may be cited as the "Affordable Housing Ordinance of the Township of North Brunswick."

Section II. Purpose.

The purpose of this Ordinance is to comply with the Court Order of the Superior Court of New Jersey in Urban League of Greater New Brunswick, et al. v. Mayor and Council of the Borough of Carteret, et al., by establishing a mechanism for assuring that housing units designated for occupancy by low and moderate income households remain affordable to, and occupied by, low and moderate income households.

Section III. Definitions.

The following terms wherever used or referred to in this Chapter shall have the following meanings unless a different meaning clearly appears from the context:

Agency. The Affordable Housing Agency of the Township of North Brunswick created pursuant to this Ordinance.

Gross Aggregate Household Income. The total annual income from all sources of all members of the household, with the exception of income exclusions provided for in the rules and regulations promulgated by the Agency.

Household. One or more persons living as a single non-profit housekeeping unit whether or not they are related by blood, marriage or otherwise.

Income Ceiling. 80% of the regional median income for moderate income households and 50% of the regional median income for low income households, with adjustments for household size.

Low Income Household. A household with a gross aggregate household income which does not exceed 50% of the regional median income, with adjustments for household size.

Low and Moderate Income Units. Dwelling units which are subject to the price and occupancy requirements of this Chapter, and whose sales prices and rental charges do not exceed the maximum amounts determined to be affordable by low and moderate income households.

Moderate Income Household. A household with a gross aggregate household income which is greater than 50% of the regional median income, but which does not exceed 80% of said regional median income, with adjustments for household size.

Regional Median Income. The median household income for the eleven county present need region determined by the Court to include the following counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Union, Sussex, Warren. For ease of calculation, regional median income shall mean 94% of the median income for the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.

Utilities. Those utilities that are essential for safe and sanitary occupancy of a rental unit, including water, sanitary sewage, electricity and heat. For the purposes of this ordinance, cable television and telephone are specifically excluded.

Section IV. Establishment of Affordable Housing Agency.

A. Creation.

There is hereby created an Affordable Housing Agency ("Agency") of the Township of North Brunswick.

B. Composition.

1. The Agency shall consist of five members, and 2 alternate members, all of whom shall be appointed by the Mayor. The membership of the Agency shall consist of one Township official and four other Township residents. One appointment shall be reserved for a tenant or owner occupant of a low or moderate income unit.

2. Alternate members shall have all of the powers of regular members when sitting in place of a regular member. Until such time as a low or moderate income owner or renter appointment can be made, an alternate member shall function as a regular member.

The Mayor shall designate one regular member to serve as chairperson.

3. Attendance by 3 regular members or alternates shall constitute a quorum. Passage of any motion requires an affirmative vote by a majority of members present.

4. The initial term of office of the Agency members shall be one (1), two (2) or three (3) years to be designated by the Mayor in making the appointment. The terms of office shall thereafter be three (3) years. The appointments shall be made in such a manner so that the terms of approximately one-third (1/3) of the members shall expire each year.

C. Vacancies; Removal for Cause.

The Mayor may remove any member of the Agency for cause. Written charges served upon the member shall

be followed by a hearing thereon, at which time the member shall be entitled to be heard either in person or by Counsel. A vacancy in the Agency occurring otherwise than by expiration of the term, shall be filled for the unexpired term in the same manner as an original appointment.

D. Powers and Duties.

1. Within 90 days of its organizational meeting, to prepare and forward to the Township Council, such rules and regulations as may be necessary to implement the policies and goals of this Section, specifically, to ensure that housing units designated as low or moderate income units, once constructed, shall remain affordable to, and be occupied by, low or moderate income households. Such rules shall be subject to review and recommendation of the Township Council.

Upon receipt of the proposed rules and regulations from the Affordable Housing Agency, the Council shall forward any comments within 45 days.

2. To determine the maximum sale, resale and rental charges for low or moderate income units, and to provide the Planning Board and developers with said calculations. Said sales and rental prices shall be adjusted annually to reflect recalculations of the regional median income.

3. To pre-qualify prospective owners and renters based upon income and household size, and to issue a certificate as to income eligibility status.

4. To require that a covenant be recorded with each deed restricting the resale of low or moderate income units to low or moderate income households.

5. To develop a formula for use in calculating the maximum resale price of low and moderate income units which is consistent with the provisions of Section VII.B. of this Ordinance.

6. To determine whether the cost or value of the installation of improvements or amenities within or as part of a low or moderate income unit should be included in calculation of the resale price or rental charge for the unit and to establish procedures whereby a homeowner can obtain a determination from the Agency in this regard prior to the time the improvements are made.

7. To review and to approve or disapprove the Affirmative Marketing Plan required of all developers of low and moderate income housing.

8. To require developers to submit proofs of publication in accordance with approved affirmative marketing

plans, and to monitor the marketing practices of developers of low and moderate income units to ensure that they comply with the affirmative marketing requirements of this Chapter.

9. To report quarterly to the Township Council on the status of low and moderate income units.

E. Appropriation and Accountability.

The Township Council shall appropriate adequate monies for operation of the Agency. The Agency may employ or contract for professional services required to carry out its duties and responsibilities, subject to the amount appropriated by the Township Council for its use.

The Agency shall report to the Township Council through the Township Administrator.

Section V. General Provisions.

A. Wherever reference is made to low or moderate income housing in the Township's Zoning Ordinance, the standards, definitions and procedures set forth in this section shall apply.

B. Except as otherwise expressly provided herein, no low income unit shall be offered for sale or rental except at prices that are affordable by low income households and no moderate income unit shall be offered for sale or rental except at prices that are affordable by moderate income households and, except as otherwise expressly provided herein, no low income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a low income household by the Agency and no moderate income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a moderate income household by the Agency.

However, nothing contained in this Chapter, or in the rules and regulations promulgated by the Agency, shall restrict or preclude any household which was classified as low or moderate income based upon its gross aggregate household income at the time it purchased or leased a low or moderate income unit, from continuing to own or lease said unit, after its income exceeds the income ceilings established in this Chapter.

D. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this Chapter.

Section VI. Determination As to Income Eligibility.

A. A prospective purchaser or renter of a low or moderate income unit must be qualified as a low or moderate income household by the Agency prior to the purchase or rental of such unit. The Agency shall periodically recalculate the

regional median income and determine adjustments for household size as updated data or estimates of median income become available.

B. The income ceilings for low and moderate income households shall be 50% and 80% respectively of the regional median income, with adjustments for household size.

Section VII. Determination of Maximum Sales Prices and Rental Charges.

Prior to the sale, resale, rental, or re-rental of a low or moderate income unit, the Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category in accordance with the following:

A. Maximum Sales Prices for Units Pending Approval.

1. A base sales price shall be calculated such that the sum of the monthly payments for principal, interest, taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed twenty-eight percent (28%) of the low or moderate income ceilings determined in accordance with Section VI.

2. Prior to issuance of building permits, with the exception of permits for model units, the developer shall provide the Agency with information demonstrating the financing that is generally available locally to lower income homebuyers. The interest rate used by the developer in calculating the maximum sales price shall generally be the rate that the Agency determines to be generally available locally for a 90%, 30-year, fixed-rate mortgage.

3. If the developer proposes to provide financing through an adjustable rate mortgage (ARM) or establishes that ARMS are generally available locally to lower income purchasers, then the interest rate to be used for calculating the maximum sales price should be either (1) the current index of one-year Treasury bills plus two points or (2) two points less than the best available fixed rate mortgage, whichever is greater.

4. In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceilings, the maximum sales price that may be offered for each such unit shall not exceed ninety percent (90%) of the base price for that size unit in each income category.

5. The Agency shall review the developer's calculations and shall determine the maximum sales prices for applicable sized units in each income category in accordance with the financial terms determined to be generally available, and shall

notify the Planning Board and the developer of said sales prices prior to final approval by the Planning Board. These sales prices shall remain in effect for a period of one year. However, the developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate the prices.

B. Maximum Resale Prices.

Prior to the resale or any low or moderate income unit, the Agency shall determine the maximum sales price for that unit in accordance with a formula developed by the Agency, which formula takes into account the following: 1) increases in the regional median income, 2) the cost of reasonable improvements to the property made by the owner, as determined by the Agency, 3) prevailing financing terms generally available in the market, and 4) reasonable out-of-pocket costs of the sale as determined by the Agency. To the extent feasible, the formula shall ensure that the sales price will be consistent with the affordability standards set forth in this chapter.

C. Maximum Rental Charges for Units Pending Approval.

1. A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the low or moderate income ceilings determined in accordance with Section VI.

2. If the cost of all utilities is not included in the monthly rental charge, the Agency shall calculate for each unit size an estimated monthly charge for those utilities not included in the rent. These charges shall be estimated utilizing estimating techniques acceptable in the industry. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be charged for each low and moderate income unit.

3. In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceilings, the maximum gross rent that may be charged for any such unit shall not exceed ninety percent (90%) of the base rent for that size unit in each income category.

4. The developer shall calculate the maximum rental charge for applicable sized units in each income category and shall submit said calculations to the Agency for review. The Agency shall determine, based upon its review, maximum rental charges. These rental charges shall remain in effect for a period of at least one year, except that the developer may request a modification of these charges by applying to the Agency for recalculation of the prices based on changes in any of the factors used to calculate the rental charges.

To the extent feasible, these criteria and procedures should ensure that the new rental charges are consistent with the affordability standards set forth in this Chapter.

5. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases.

D. Relationship Between Household Size and Unit Size.

For the purpose of determining maximum sales prices and rental charges pursuant to this Chapter, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

efficiency	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	5 persons
4 bedrooms	6 persons

Section VIII. Expiration of Restrictions.

Restrictions governing both the resale of low and moderate income sales units and the re-rental of low and moderate income rental units shall expire 30 years from the date of initial sale or rental of the property, or such other lesser time as may be adopted pursuant to subsequent state legislation.

However, rental units may be converted into condominiums, cooperatives, or some other form of ownership after a minimum period of 10 years. If rental units are converted within 30 years of initial occupancy, the same number of low and moderate income units, respectively, must be maintained after conversion, subject to resale controls ensuring their continued affordability and occupancy for the balance of the 30 year period.

Section IX. Exceptions in the Event of Foreclosure.

In the event of foreclosure, the low and moderate income units shall be released from the restrictions of this Chapter and an instrument in recordable form releasing said units shall be delivered to the foreclosing lender by the Agency.

Section X. Affirmative Marketing Requirements.

A. All developers of low and moderate income units shall affirmatively market said units to persons of low and moderate income, irrespective of race, color, sex, religion or national origin.

Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Agency, which plan shall be incorporated as a condition of approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers with general circulation in the following urban areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low or moderate income units: the Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government social service and public welfare departments located in the following eleven counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Union, Sussex and Warren.

B. All advertisements shall conform with applicable Affirmative Action, Equal Opportunity, and non-discrimination laws of the State and Federal government.

Section XI. Reporting Requirements.

The Township of North Brunswick shall report quarterly in writing to the Civic League of Greater New Brunswick or its designee, commencing with December 31, 1985, providing the following information with regard to any sites requiring set asides of low and moderate income housing:

A. Itemization of all proposed developments which are subject to the provisions of this Chapter and for which applications have been filed with or approved by the Planning Board. Information shall be provided on the location of the proposed site, number of low or moderate income units, the name of developer, and dates that Planning Board actions were taken or are anticipated to be taken.

B. A copy of the affirmative marketing plans provided for each development together with copies of advertisements and a list of newspapers and community or governmental organizations or agencies which received the advertisements.

Section XII. Developer's Responsibilities.

The responsibilities of the developer shall include, but not be limited to the following:

A. The marketing of all low and moderate income units in accordance with the requirements of this Chapter.

B. Submission of information financing terms readily available to low and moderate income households for use by the Agency in computing affordable sales prices.

C. Submission of an Affirmative Marketing Plan to the Agency for approval, and submission of proofs of publication to ensure compliance with said plan.

D. Submission of bi-monthly reports to the Agency detailing the number of low and moderate income households who have signed leases or purchase agreements, as well as the number who have taken occupancy of lower income units.

Section XIII. Severability.

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.