



STEVEN M. FULOP
MAYOR OF JERSEY CITY

CITY OF JERSEY CITY
DEPARTMENT OF HOUSING, ECONOMIC
DEVELOPMENT AND COMMERCE
DIVISION OF AFFORDABLE HOUSING

THE HOLLOWAY BUILDING | 4 JACKSON SQUARE, 39 KEARNEY AVENUE | JERSEY CITY, NJ 07305
O: 201.547.5169 | E-MAIL: DOAH@jcnj.org



GIGI GAZON
DIVISION DIRECTOR

FAQs on Chapter 188 – Affordable Housing Compliance

NOTE: All property owners of residential buildings containing five or more units are required to register their properties with the Division of Housing Preservation -

<https://www.cognitofrms.com/CityOfJerseyCity1/2022AnnualLandlordRegistrationStatementFiveUnitsAndMore>

What is Chapter 188 (Housing Accommodations and Affordable Housing Compliance) as amended in Ordinance 21-017?

- Chapter 188 of the Municipal Code was adopted by the Municipal Council to regulate municipally mandated or funded affordable housing.
- Chapter 188 (as amended in Ord. 021- 017 and approved by the Municipal Council on March 24, 2021) incorporates the requirements established by the State of New Jersey’s Uniform Housing and Affordability Controls (UHAC) as set forth in N.J.A.C. 5:80-26.1 et seq.

When did the revised version of Chapter 188 go into effect?

- April 14, 2021

What projects/developments are subject to Chapter 188?

As stipulated in paragraph C of Section 8 in Chapter 188, the regulations under Chapter 188 applies to all inclusionary developments and affordable housing developments **except** for the following:

- Projects subject to funding requirements under the Federal Low-Income Housing Tax Credit under Section 42 of the Internal Revenue Code (https://www.irs.gov/pub/irs-utl/IRC_42.pdf);
- Projects receiving Balanced Housing funds (<https://www.nj.gov/dca/divisions/dhcr/offices/bh.html>) under the Agency’s Home Express program; or
- Units receiving assistance under the Federal HOME Program, 24 C.F.R Part 891 (Supportive Housing For The Elderly And Persons With Disabilities - <https://ecfr.io/Title-24/Part-891>;
- HUD 811 program, 24 C.F.R. Part 890 (Section 811/Supportive Housing for Persons with Disabilities Program - https://www.hud.gov/program_offices/housing/mfh/grants/section811pt1);
- HUD HOPE VI program (https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6/about#:~:text=The%20HOPE%20VI%20program%20serves%20a%20vital%20role,include%3A%20Changing%20the%20physical%20shape%20of%20public%20housing); or
- Federal Homes Loan Bank, Affordable Housing Program, 12 C.F.R. Part 60 (<https://ecfr.io/Title-12/Part-1291>).



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What are the requirements of the revised Chapter 188?

- Projects with complete applications (as determined by Division of City Planning Staff) before the Zoning Board and Planning Board; or with a finalized agreement with the Jersey City Redevelopment Agency prior to April 14, 2021, are subject to Chapter 188 of the Municipal Code under Ordinance 19-131.
- If your application was deemed complete prior to April 14, 2021 please call the DOAH office for assistance. Projects with applications deemed complete on or after April 14, 2021 are subject to Chapter 188 of the Municipal Code as re-written under Ordinance 21-017 and are subject to the UHAC. Jersey City is located in Hudson County, which is part of the larger UHAC Region 1 that includes three other counties - Bergen, Passaic, and Sussex.

a. Income Eligibility Requirements

Under Paragraph R of Section 15 in the revised Chapter 188, it has been established that Income Eligibility will be in accordance with N.J.A.C 5:80-27.13 (UHAC), which define the following income groups:

- Very-Low Income Rental Units:
Units designated for households that have a gross income less than or equal to 30% of area median income;
- Low-Income Rental Units:
Units designated for households that have a gross income that is less than or equal to 50% of the area median income;
- Moderate-Income Rental Units:
Units designated for households with gross income greater than 50%, but no more than 80% of the area median income.

b. General Affordability Distribution

- Low/Moderate Split
 - Affordable units shall be divided equally between low- and moderate-income households (except where there is an odd number of affordable housing units in which the extra unit shall be for a low-income household).
 - At least 13 percent of the restricted *rental* units within each bedroom count shall be affordable to very-low income households.
 - At least half of the affordable units in each bedroom type within each affordable housing development shall be affordable to low-income households.



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c. *Bedroom Distribution of Affordable Housing Units*

- o The minimum requirements on the distribution of bedroom type by each affordability group are as follows:

Unit Type	Percentage of Total Number of Restricted Units
Efficiency/Studio/One-Bedroom Units	No more than 20% of the affordable units for low and moderate-income households.
Two-Bedroom Units	At least 30% of the affordable units for low- and moderate-income households.
Three-Bedroom Units	At least 20% of the affordable units for low- and moderate-income households.

Reminder: At least 13 percent of all affordable **rental** units for each bedroom type shall be allocated to very-low income households in accordance with Chapter 188-15(D)(2).

Note: The remaining 30% of the affordable units that are **two- and three-bedroom units** may be allocated at the discretion of the developer as stipulated in Chapter 188-15(D)(4).

What should the income and unit mix be for buildings with ten (10) or fewer affordable units?

- For properties with ten (10) or fewer affordable units, DOAH has adopted the policy established in §187-7(2) of the Jersey City Municipal Code that states the following:

“In developments that produce ten or fewer on-site affordable units, the bedroom distribution of the affordable units may mirror the bedroom distribution of the market-rate units so long as at least fifty percent (50%) of the units are low-income and at least one affordable unit is a three-bedroom unit.”

What are the administrative requirements?

- Developer and City enter into an Affordable Housing Agreement (AHA) per §188-10.
- Division of Affordable Housing (DOAH) records a Deed Restriction with the Hudson County Register’s Office per §188-15.P(3).
- Affirmative Marketing Plan requirements per §188-15.I.
- Application period, lottery, tenant selection/certification requirements per §188-15.K.
- Annual recertification requirements per §188-10.A(5).
- Quarterly and annual reporting per §188-9.D.

What if I was in the process of executing an AHA with DOAH prior to April 14, 2021?

- Projects underway with DOAH and with completed Zoning or Planning Board applications prior to April 14, 2021 are subject to the regulatory requirements of Chapter 188 as amended under Ord. 19-131.
- Please call DOAH for more information at (201) 547-5169.



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What are the requirements for the developer?

- The developer is required to enter an AHA with the DOAH and abide by all the terms of the AHA that includes the following:
 - Maintain a “Quarterly Affordable Units List” and “Affordable Unit Waiting List”.
 - Develop an Affirmative Marketing Plan for unoccupied units.
 - Provide an annual report on January 2nd in addition to quarterly reports.
 - Comply with the procedures for establishing initial base rents and maximum rental limits.
 - Comply with regulations prohibiting non-discrimination of potential tenants.
 - Make all marketing plans and reports available to the public.
 - Maintain confidentiality of the applicants.
 - Comply with occupancy requirements as established by the AHA.
 - Certify the income of tenants.
 - Recertification of tenant income on an annual basis.



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MEMORANDUM

To: All Developers and Landlords
 From: Gigi Gazon, Director of the Division of Affordable Housing
 Date: October 18, 2021
 Re: Utility Allowances for Income Restricted Units

Under U.S. Department of Housing and Urban Development (HUD) regulations the term “affordable housing” is defined as “...housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities.”¹ The concept of utility cost as an inextricable element of housing costs is further established under state law in New Jersey for the definition of “rent”, which is defined as “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. With respect to units in an assisted living residence, rent does not include charges for food and services.”²

Effective the date of this memo, the City of Jersey City’s Division of Affordable Housing (DOAH) will be requiring all developers and landlords to apply utility allowances to the rents of tenants occupying income restricted units that were either mandated by the City or constructed as a condition of approval by the Planning Board or Zoning Board of Adjustments. Utility allowance rates are based on how each building is designed to provide space heating, water heating, electricity, air conditioning, water, and sewer services to tenants. The specific schedule of utility allowance rates that will apply to a particular building will depend on the time that a project’s site plan application was deemed complete by the Division of City Planning, which in turn will determines if a project will be governed by the regulations established under City Ordinance 19-131 or City Ordinance 21-017. The application of a particular utility allowance schedule will be applied as follows:

- I. Projects with site plan applications deemed complete or projects constructed PRIOR to the effective date of City Ordinance 21-017 on April 14, 2021
 - In addition to following the most recent rent limit schedule published by HUD and the New Jersey’s Department of Community Affairs (NJDCA), developers and landlords will need to deduct the most recently published by HUD utility allowance amounts that are relevant to the development from the rent of each income restricted unit.

- II. Projects with site plan applications deemed complete or projects constructed AFTER the effective date of City Ordinance 21-017 on April 14, 2021

¹ U.S. Department of Housing and Urban Development. (2011, August 18). *HUD Archives: Glossary of terms to affordable housing*. HUD. Retrieved February 7, 2022, from <https://archives.hud.gov/local/nv/goodstories/2006-04-06glos.cfm>

² N.J.A.C 5:80-26.2



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- In addition to following the most recent rent limit schedule for Region 1 under NJDCA (available through the Affordable Housing Professionals of New Jersey via <https://ahpnj.org/resources/income-limits-rental-increases>), developers and landlords will need to deduct the utility allowance amounts relevant to the development from the rent of each income restricted units, in accordance with N.J.A.C 5:80-26-12(e).

Links to utility allowance schedules are available on the DOAH's website:

https://jerseycitynj.gov/CityHall/HousingAndDevelopment/affordable_housing/developers

Cc: Annisia Cialone, Director, Department of Housing, Economic Development, and Commerce
Tanya Marione, Director, Division of City Planning
John McKinney, Assistant Corporation Counsel
Jeremy Jacobsen, Assistant Corporation Counsel
Alexander McClean, Chief Policy and Compliance Officer, DOAH