

Ordinance No. 0.13.06

TOWNSHIP OF DEPTFORD

COUNTY OF GLOUCESTER, STATE OF NEW JERSEY

□ □ □

AN ORDINANCE OF THE TOWNSHIP OF DEPTFORD
IN GLOUCESTER COUNTY, NEW JERSEY,
AMENDING SECTION 38 OF THE UNIFIED
DEVELOPMENT ORDINANCE OF THE TOWNSHIP
OF DEPTFORD TO ADDRESS REQUIREMENTS FOR
AFFORDABILITY CONTROLS AND AFFIRMATIVE
MARKETING IN ACCORDANCE WITH THE
THIRD ROUND RULES OF COAH

WHEREAS, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.* ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") is the State administrative agency created pursuant to the FHA vested with primary jurisdiction for the administration of affordable housing obligations in accordance with sound regional planning considerations in this State (*N.J.S.A. 52:27D-304(a)*); and

WHEREAS, COAH's Third Round Substantive Rules (*N.J.A.C. 5:94-1, et seq.*) contain requirements for the affirmative marketing of affordable units to the low and moderate income population; and

WHEREAS, COAH's Third Round Substantive Rules require the imposition of proper covenants and restrictions to ensure continued occupancy by low and moderate income households of affordable housing units; and

WHEREAS, the Township of Deptford desires to implement policies promulgated and adopted by COAH in its Third Round Substantive Rules, effective December 20, 2004, in an effort to foster the production of affordable housing opportunities for qualified low and moderate income households through the third

housing cycle which extends from 2000 to 2014 pursuant to *N.J.A.C. 5:94 et seq.* and *N.J.A.C. 5:95 et seq.*;

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Deptford, County of Gloucester, New Jersey, that:

Section 1. §38, Affordable housing requirements, of the Unified Development Ordinance of the Township of Deptford is hereby repealed in its entirety and replaced with the following new section:

§ 38. Affordable Housing Controls and Affirmative Marketing Requirements.

- A. Purpose. This section is designed to implement the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*) and the Township of Deptford's Housing Element of the Master Plan by ensuring that affordable housing created under the Act is occupied by low and moderate-income households for the appropriate period of time. The words, phrases, and terms herein shall be interpreted to have the same meanings and usages as in the Act and its related regulations, including but not limited to, Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.1 et seq.*) and the regulations of the New Jersey Council on Affordable Housing (*N.J.A.C. 5:94-1 et seq.*), as they may be amended or superseded. This section also implements the Township's growth share requirements and provides for the imposition of development fees. This section sets for the affirmative marketing requirements that are intended to create a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital, or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing.
- B. Affordability Average; Bedroom Distribution.
1. In each affordable development, at least fifty percent (50%) of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate-income units.
 2. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - a. The combined number of efficiency and one bedroom units is no greater than twenty percent (20%) of the total low and moderate-income units;
 - b. At least thirty percent (30%) of all low and moderate-income units are two bedroom units;

- c. At least twenty percent (20%) of all low and moderate-income units are three bedroom units; and
 - d. The remainder, if any, may be allocated at the discretion of the developer.
3. Age-restricted low and moderate-income units may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the affordable development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.
4. The maximum rent for affordable units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income and the average rent for low and moderate-income units shall be affordable to households earning no more than fifty-two percent (52%) of median income. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate-income units, provided that at least ten percent (10%) of all low and moderate-income units shall be affordable to households earning no more than thirty-five percent (35%) of median income.
5. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income. Each affordable development shall achieve an affordability average of fifty-five percent (55%) for restricted ownership units. In achieving this affordability average, moderate income ownership units shall be available for at least three different prices for each bedroom type, and low income ownership units shall be available for at least two different prices for each bedroom type.
6. Affordable units shall utilize the same type of heating source as market units within the affordable development.
7. The facade of an affordable housing unit shall be indistinguishable from those of market units in terms of the use of exterior materials, windows, doors, reveal, roof pitch, color, or other material. Affordable housing units shall be interspersed with market rate housing to the greatest extent possible.
8. For inclusionary developments with a single housing tenure, the affordable housing units shall have the same tenure as the market housing units.

C. Occupancy Standards.

1. In determining the initial rents and initial sales prices for compliance with the affordable average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one person household;
 - b. A one bedroom unit shall be affordable to a one and one-half person household;
 - c. A two bedroom unit shall be affordable to a three person household;
 - d. A three bedroom unit shall be affordable to a four and one-half person household;
 - e. A four bedroom unit shall be affordable to a six person household.
2. For assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one person household;
 - b. A one-bedroom unit shall be affordable to one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a two person household or to two one-person households.
3. In referring certified households to specific restricted units, to the extent feasible and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - a. Provide an occupant for each unit bedroom;
 - b. Provide children of different sex with separate bedrooms; and
 - c. Prevent more than two persons from occupying a single bedroom.

D. Ownership Units.

1. Each restricted ownership unit shall remain subject to the requirements of the Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.1 et seq.*) until the Township of Deptford elects to release the unit from such

requirements pursuant to action taken in compliance with *N.J.A.C. 5:80-26.5(g)*. Prior to such municipal election, a restricted ownership unit shall remain subject to the requirements of *N.J.A.C. 5:80-26.5*, for a period of at least 30 years.

2. Each restricted ownership unit shall remain in compliance with and subject to the requirements of the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.5* for control periods, *N.J.A.C. 5:80-26.6* for price restrictions, *N.J.A.C. 5:80-26.7* for buyer income eligibility, *N.J.A.C. 5:80-26.8* for limitations on indebtedness and subordination, *N.J.A.C. 5:80-26.9* for capital improvements, and *N.J.A.C. 5:80-26.10* for maintenance.

E. Rental Units.

1. Each restricted rental unit shall remain subject to the requirements of the Uniform Housing Affordability Controls until the Township of Deptford elects to release the unit from such requirement pursuant to action taken in compliance with *N.J.A.C. 5:80-26.11(e)*. Prior to such a municipal election, a restricted rental unit shall remain subject to the requirements of *N.J.A.C. 5:80-26.11*, for a period of 30 years.
2. Each restricted rental unit shall remain in compliance with and subject to the requirements of the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.11* for control periods, *N.J.A.C. 5:80-26.12* for restrictions on rents, and *N.J.A.C. 5:80-26.13* for tenant income eligibility.

F. Administrative Agent.

1. Each income restricted unit identified in Deptford Township's Housing Element and Fair Share Plan shall have a designated administrative agent. The affordability controls set forth in this ordinance shall be administered and enforced by such administrative agent. The primary responsibility of the administrative agent shall be to ensure that the restricted units under administration are sold or rented, as applicable, only to low and moderate-income households. Among the responsibilities of the administrative agent are those outlined under *N.J.A.C. 5:80-26.14*. The Township of Deptford hereby designates the Housing Affordability Service in the NJ Department of Community Affairs as the designated administrative agent, or some other such administrative agent as may be approved by the NJ Department of Community Affairs, the NJ Housing Mortgage Finance Agency or COAH for the administration of affordability controls and other requirements pursuant to the Fair Housing Act.

2. The administrative agent shall have the responsibility to income qualify low and moderate-income households, to place income eligible households in low and moderate-income units upon initial occupancy, to provide for the initial occupancy of low and moderate-income units with income qualified households, to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls, to assist with advertising and outreach to low and moderate income households, and to enforce the terms of the deed restriction and mortgage loan. The administrative agent shall 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.
 3. Procedures for changing administrative agents. In order to ensure an orderly transfer of control responsibility from a municipality to an administrative agent, from one administrative agent to another administrative agent, or other transfer, the requirements as set forth in *N.J.A.C. 5:80-26.17* shall apply as are necessary before or during the transition. The administrative agent's enforcement responsibility for implementing such practices and procedures shall not be delegated or otherwise transferred to any other party, except to a successor administrative agent.
 4. Enforcement. By accepting state funds for affordable housing purposes, or by submitting to the jurisdiction of COAH, Deptford Township shall be deemed to have delegated to its administrative agent the day-to-day responsibility for implementing practices and procedures designated to ensure effective compliance with the controls set forth in this Article. Deptford Township, however, shall retain the ultimate responsibility for ensuring effective compliance with the requirements as set forth in the Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.1 et seq.*).
- G. Municipal Housing Liaison. There is hereby created the position of Municipal Housing Liaison who shall be a municipal employee. The Township Council shall appoint the Municipal Housing Liaison by resolution. The Municipal Housing Liaison shall act as the municipality's representative between COAH, municipal officials, the Township's designated administrative agent and the developer or sponsor of affordable housing. The Municipal Housing Liaison shall be responsible for tracking the progress of affordable housing, addressing or designating a delegate to address inquiries regarding affordable housing from the public and COAH, and complying with COAH monitoring and reporting requirements.

H. Affirmative Marketing.

1. The Township of Deptford's affirmative marketing plan is intended to address the requirements of *N.J.A.C. 5:80-26.15*. Deptford Township is located in COAH Housing Region 5 that consists of Gloucester, Camden, and Gloucester Counties. The affirmative marketing program is a continuing program that shall meet the requirements set forth in this subsection.
2. The affirmative marketing plan is intended to be used by all developers of affordable housing restricted to low and moderate-income households located within the Township of Deptford. Information provided in the marketing of low and moderate-income units shall contain the name, address, directions (to the project), the number of units (including the number of sales and/or rental units), a range of prices or the price of sales and/or rental units, the name of the sales agent and/or rental manager, along with the location(s) and hours when applications may be obtained and directions to sales and/or rental office, a description of the size (in bedrooms) of the units and of the random selection method that shall be used to select occupants, a disclosure of required application fee(s), and the maximum income permitted to qualify for the housing units. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all of the affordable units have been leased or sold.
3. Location of Applications. Applications, brochure(s), sign's, and/or poster(s) shall be located at the Deptford Municipal Building, Gloucester County Department of Human Services and respective sales and rental offices. Applications shall also be mailed to prospective applicants upon request.
4. The media and outreach sources to be used in advertising and publicizing of the availability of housing in the affirmative marketing plan shall include the following:
 - a. Newspapers of general circulation within the housing region. All newspaper articles, announcements, and requests for applications for low and moderate income units shall appear in the following daily publications: Gloucester County Times and Courier Post.
 - b. Radio and television stations within the housing region. Public service announcements shall be made through the use of the following radio stations broadcasting throughout the region: WNJS

- (88.1) New Jersey Network, WGLS (89.7) Rowan University of New Jersey and WDBK (91.5) Camden County College.
- c. Other publications circulated within the housing region. All newspaper articles, announcements, and requests for applications for low and moderate income housing shall appear in the following neighborhood oriented weekly newspapers: Renters Guide Weekly.
 - d. Employers throughout the housing region. The following employers will be contacted for the posting of advertisements and the distribution of flyers regarding available affordable housing: Kennedy Memorial Hospital (Turnersville), Deptford Mall Associates (Deptford), Underwood Memorial Hospital (Woodbury), WalMart Corp. (Deptford), Home Depot (Deptford) and Lowe's Home Improvement (Deptford).
 - e. Community outreach. The following is a listing of community contact person(s) and/or organizations in Gloucester, Camden and Gloucester Counties that will aid in soliciting low and moderate-income applicants, with particular emphasis on contacts that will reach out to groups that are least likely to be reached by commercial media efforts: Area Chapter of the NAACP (Bordentown), SASCA Hispanic Social Service Center (Willingboro), Interfaith Hospitality Network (Mt. Laurel), Family Services of Gloucester County, Servicios Latinos de Gloucester County (Mt. Holly), Camden Churches Organized for People (Camden), Fair Housing Center (Cherry Hill), Gloucester County Department of Economic Development (Woodbury).
 - f. Other advertising and outreach efforts. The following groups in the Deptford region will be sent information circulars and applications: Gloucester County Board of Realtors in Gloucester, Camden and Gloucester Counties, Welfare or Human Services Boards in Gloucester, Camden and Gloucester Counties, Rental Assistance Office (Local office of DCA), Gloucester County Office of Aging, Catholic Charities (Diocese of Camden) and Lutheran Social Ministries of New Jersey (Trenton).
 - g. The affirmative marketing process for available affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the administrative agent shall undertake all of the following strategies:

- 1) Publication of one advertisement in a newspaper listed above.
 - 2) Broadcast of one advertisement by a radio station listed above.
 - 3) At least one additional regional marketing strategy using one of the other sources listed above.
5. In implementing the affirmative marketing plan, each administrative agent shall designate an experienced staff agent approved by COAH to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit history, mortgage qualifications, rental lease agreements, and landlord/tenant law, as applicable. Alternatively, an administrative agent may refer applicants to an experienced agency approved by COAH to provide such counseling services.
6. The Township shall also ensure that all original applicant and sales records of affordable units be returned to the municipality for reporting purposes and to aid with future resale. The Township shall retain the ultimate responsibility for the proper administration of the affirmative marketing program including initial sales and rentals and resale and re-rental.
- I. Household certification and random selection.
1. The administrative agent shall prepare a standardized form of certification and shall secure all information from applicant households necessary and appropriate to determine that restricted units are occupied by properly sized households with appropriate low or moderate income levels. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed, dated, and executed certification, as set forth in the Uniform Housing Affordability Controls (*N.J.A.C.* 5:80-26.16, Applications J and K, as applicable). An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event certification shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing, at the request of the head of the certified household, for an additional 180 days at the administrative agent's discretion.
 2. When reviewing an applicant's household income to determine eligibility, the administrative agent shall make its determination in accordance with *N.J.A.C.* 5:80-26.16. The administrative agent may also require a

household to produce documentation of household composition for determining the correct unit size and applicable income level.

3. The administrative agent may withhold a certificate of eligibility as a result of the applicant's inability to demonstrate sufficient present assets for down payment or security deposit purposes. A certificate of eligibility may also be withheld by the administrative agent as a result of the applicant's inability to verify funds claimed as assets, household composition, or other facts represented. The administrative agent shall deny the certificate of eligibility should it be determined that any willful and material misstatement of fact has been made by an applicant seeking eligibility.
4. The administrative agent shall employ a random means of selecting households when matching certified applicants to available affordable units. The random selection process shall include the following:
 - a. The administrative agent shall conduct a pre-qualification review of each application as they are received to determine preliminary income eligibility. All qualified applications are then re-sealed and held until the date of the advertised random selection drawing. Applicants exceeding the income levels permitted for the type of unit available shall be notified in writing as to their ineligibility for the program.
 - b. Applicants that meet the preliminary income qualification requirements shall be notified by the administrative agent in writing of their eligibility and notified of the date, time and place that the random selection lottery shall occur. The Deptford Municipal Housing Liaison shall also be notified.
 - c. On the day of the lottery, eligible applicants shall be listed in the order selected and placed in applicant pools or waiting lists based upon the type of units available.
 - d. After the random selection process is completed, the applicant first selected shall be given a reasonable number of days to be established by the administrative officer, but no less than two weeks, to express interest or disinterest in the available unit. If the first household is not interested or fails to respond with the time period established, the second applicant shall be given the same time period in which to respond in the same manner. This process shall continue until a certified applicant accepts the unit. Once an applicant accepts an available unit, the administrative agent shall secure all information necessary from the applicant and/or

household necessary and appropriate to determine that the restricted unit will be occupied by a properly sized household for the number of bedrooms available within the income limits established by the NJ Council on Affordable Housing. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed, dated, and executed certification.

- J. Appeals from Decision of Administrative Agent. Appeals from all decisions of the administrative agent shall be filed in writing with the Executive Director of the New Jersey Housing and Mortgage Finance Agency. When acting in this capacity, the Executive Director may appoint one or more employees of the Agency, COAH and/or the Department of Community Affairs to assist him or her in rendering the final decision; whenever he or she, in his or her sole discretion, determines that committee participation would materially provide a fair and just disposition of the appeal. A written decision of the Executive Director upholding, modifying or reversing an administrative agent's decision shall be a final administrative action.

Section 2. Continuation, All Ordinances. In all other respects the Deptford Code of Ordinances, as amended and supplemented, shall remain in full force and effect.

Section 3. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part there of directly involved in the controversy in which such judgment shall have been rendered.

Section 4. Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Township of Deptford, then the restriction which imposes the greater limitation shall be enforced.

Section 5. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 6. Enactment. This Ordinance shall take effect twenty (20) days after final passage and publication pursuant to *N.J.S.A.* 40:69A-181 and notice to the Gloucester County Planning Board within thirty (30) days pursuant to *N.J.S.A.* 40:55D-15b.

TOWNSHIP OF DEPTFORD

BY: Paul Medany
PAUL MEDANY, MAYOR

ATTEST:

Dina L. Zawadski
DINA L. ZAWADSKI, CLERK

CERTIFICATION

The above Amended Ordinance was introduced and passed upon first reading at a meeting of the Township Council of the Township of Deptford held on the 2nd day of October, 2006 and will be taken up for final consideration and passage at the Regular Meeting of Mayor and Council of the Township of Deptford to be held at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey, Gloucester County, on the 13th day of November, 2006 at 7:00 P.M. or as soon thereafter as the matter can be reached at which time any person interested shall be given an opportunity to be heard.

Dina L. Zawadski
DINA L. ZAWADSKI, CLERK