

Part II

General

Legislation

AFFORDABLE HOUSING

Chapter 17A

AFFORDABLE HOUSING

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[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta 8-31-1988.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Construction codes, uniform — See Ch. 29A.
Land development — See Ch. 40.

¹ Editor's Note: This ordinance shall be retroactive to January 1, 1987.

§ 17A-1. Title.

This chapter shall be known and may be cited as the "Affordable Housing Ordinance of the Borough of Helmetta."

§ 17A-2. Purpose.

The purpose of this chapter is to comply with the court order of the Superior Court of New Jersey in Mount Laurel II Consolidated Actions 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.

§ 17A-3. 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:

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4, as amended and supplemented. [Added 7-26-1995 by Ord. No. 17-1995]

AFFORDABLE HOUSING PLAN — An instrument to be recorded with the office of the Clerk, Middlesex County, New Jersey, constituting restrictive covenants running with the land with respect to the low- and moderate-income units described and identified in such instrument. The instrument shall set forth the terms, restrictions and provisions applicable to the low- and moderate-income units and shall be consistent with this chapter, including but not limited to those provisions of this chapter concerning use, occupancy, sale, resale, rental, rerelease, sales price and rental determination, duration of restrictions, exempt transactions, hardship exemptions, foreclosure, violation, legal description of the specific low- and moderate-income units governed by

the instrument, determination of eligible purchasers and owners, responsibilities of owner and improvements and creating the liens and rights of the Agency upon such low- and moderate-income units, authorizing the Agency or, in the alternative, the Borough of Helmetta to enforce the restrictive covenants referred to herein, all as such provisions of this chapter exist at the time that the instrument is executed by the Agency. The instrument shall refer to this chapter and the rules and regulations of the Affordable Housing Agency. The terms, restrictions and provisions of the instrument shall bind all purchasers and owners of any low- and moderate-income units their heirs and assigns and all persons claiming by, through or under their heirs, assigns and administrators. If a single instrument is used to govern more than one low- and moderate-income unit, then the instrument must identify the location of each low- and moderate-income unit governed by the instrument, and the deed of each and every individual low- and moderate-income unit so governed must contain the recording information of the instrument applicable to such low- and moderate-income units. It is intended that the terms of the affordable housing plan be wholly consistent with this chapter and the rules and regulations of the Agency, as such chapter and rules and regulations of the Agency existed on the date the affordable housing plan is executed by the Agency; however, in the event of conflict or inconsistency, this chapter and rules and regulation as they existed on the date of the plan shall control. Changes, amendments or revisions to this chapter and rules and regulations subsequent to the date of an affordable housing plan shall not affect, amend or alter the affordable housing plan, and such affordable housing plan shall continue to be interpreted and applied in accordance with this chapter and rules and regulations as the same existed on the date of the particular affordable housing plan. Such instrument shall be executed by the Agency prior to recording of the affordable housing plan, and the Agency

shall certify that the affordable housing plan is consistent with the then current Affordable Housing Ordinance and rules and regulations. The instrument shall also be executed by the developer and/or the then current title holder of record of the property upon which the low- and moderate-income units are to be constructed.

AGENCY — An agency with which the Borough of Helmetta shall contract for ensuring the affordability of sales and rental units, affirmative marketing, income qualification of low- and moderate-income households, placement of income-eligible households in low and moderate income units upon initial occupancy, placement of income-eligible households in low- and moderate-income units as they become available during the period of affordability controls and enforcement of the terms of the deed restriction and/or loan on affordability, including rehabilitated units, over time and for carrying out controls on affordability as set forth in N.J.A.C. 5:93-1 et seq., as amended and supplemented. [Amended 7-26-1995 by Ord. No. 17-1995]

ASSESSMENTS — Taxes, levies, charges or assessments, both public and private, including those imposed by the association, as the applicable case may be, upon the low- and moderate-income units which are part of the association.

FIRST PURCHASE MONEY MORTGAGE — The most senior mortgage lien to secure repayment of funds for the purchase of low- and moderate-income units.

FIRST PURCHASE MONEY MORTGAGEE — The holder and/or assigns of the first purchase money mortgage, which must also be an institutional lender or investor, licensed or regulated by a state or federal government or an agency thereof. Other lenders, investors or persons may be holders of a first purchase money mortgage; however, for the purposes of this chapter, such

other lenders, investors or persons shall not be "first purchase money mortgagees."

FORECLOSURE — A termination of all rights of the mortgagor or the mortgagor's assigns or grantees in a low-and moderate-income unit covered by a recorded mortgage through legal processes or through a deed in lieu of foreclosure which has been executed and delivered prior to a judicially regulated sale.

GROSS AGGREGATE HOUSEHOLD INCOME — The total annual income from all sources of all members of the household or family, except income received by a family household member (other than the family head, spouse or foster children) who is under the age of 18 years or a full-time student of any age. Income includes but is not limited to compensation for employment services, interest, dividends, rent, pension benefits, government benefits, unemployment compensation, welfare payments, disability income, support payments and return-on-assets income as defined herein.

GROSS DENSITY — The total number of dwelling units existing or permitted on a housing site divided by the total area of the tract. The result is expressed as dwelling units per acre. [Added 7-26-1995 by Ord. No. 17-1995]

HOUSEHOLD — One or more persons living as a single nonprofit housekeeping unit, whether or not they are related by blood, marriage or otherwise.

IMPROVEMENT — Additions within a low- and moderate-income unit, including materials, supplies, appliances or fixtures which become a permanent part of or affixed to such low- and moderate-income units.

INCLUSIONARY DEVELOPMENT — A development containing low- and moderate-income units. This term includes, but is not limited to, new construction, the conversion of a nonresidential structure to a residential structure and the creation of new low and moderate

income units through the substantial rehabilitation of a vacant residential structure. [Added 7-26-1995 by Ord. No. 17-1995]

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-INCOME HOUSING — Housing affordable according to the federal Department of Housing and Urban Development or the standards included in N.J.A.C. 5:93-1 et seq., as amended and supplemented, for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the housing is located and which is subject to affordability controls promulgated by the New Jersey Council on Affordable Housing. [Added 7-26-1995 by Ord. No. 17-1995]

LOW-INCOME PURCHASER — A low-income household purchasing either a low-income unit or a moderate income unit, as the case may be.

LOW-INCOME UNIT — A unit which is affordable to a low-income household.

MARKET RATE UNITS — Housing within an inclusionary development, not restricted to low- and moderate-income households that may sell at any price determined by a willing seller and a willing buyer. [Added 7-26-1995 by Ord. No. 17-1995]

MARKET UNIT — Any residential unit within a development which is not designated as a low- and moderate-income unit.

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.

MODERATE INCOME HOUSING — Housing affordable according to the federal Department of Housing and Urban Development or the standards included in N.J.A.C. 5:93-1 et seq. for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income in excess of 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located and which is subject to affordability controls promulgated by the New Jersey Council on Affordable Housing. [Added 7-26-1995 by Ord. No. 17-1995]

MODERATE-INCOME PURCHASER — A moderate-income household purchasing a moderate-income unit.

MODERATE-INCOME UNIT — A unit which is affordable to a moderate-income household.

NET FAMILY ASSETS — The value of equity in real property, including gains from the sale of real property, savings and other forms of capital investment, but not including equity in a business or farm operation where that business or farm operation is the principal means of support of the household, amounts in an irrevocable trust fund or the value of personal property (e.g., car, furniture, etc.)

OWNER — The then current title holder of record of a low- and moderate-income unit. "Owner" shall refer to and mean the title holder of record as the same is reflected in the most recently dated and recorded deed for the particular low- and moderate-income unit. For purposes of the initial sales or rental of any low- and moderate-income unit, "owner" shall include the developer/owner of such low- and moderate-income unit.

Ownership of a low- and moderate-income unit shall be deemed to be acceptance and ratification of the provisions of this chapter and the affordable housing plan. Where appropriate, the term "owner" shall also mean and refer to a person who owns a low- and moderate-income unit as a landlord or who occupies a low- and moderate-income unit as a tenant. "Owner" shall not include any cosigner or coborrower on any first purchase money mortgage unless such cosigner or coborrower is also a named title holder of record of such low- and moderate-income unit.

QUALIFIED PURCHASER — A person who, pursuant to this chapter and the affordable housing plan, submits an application for certification as a qualified purchaser to the Agency, whose gross aggregate household income at the time of proposed purchase of a low- and moderate-income unit is within low- and moderate-income levels, as these income levels are designated herein, and who obtains certification as a qualified purchaser of a low- and moderate-income unit from the Agency pursuant to the rules and regulations of the Agency. Once a "qualified purchaser" becomes an owner of a lower-income unit in accordance with the provisions of this chapter, any increase or decrease in the gross aggregate household income of such owner shall not affect ownership rights, privileges or obligations of any person or family who occupies the low- and moderate-income unit on a rental basis, subject to the qualifications and conditions stated above and elsewhere herein. Any person who submits false information in support of an application for certification and who subsequently received such certification and either title to a low- and moderate-income unit as owner or possession of a low- and moderate-income unit as tenant shall be deemed to have committed a substantial breach of the provisions of this chapter and the affordable housing plan, and any right of ownership of such unit shall be subject to forfeiture pursuant to the provisions of § 17A-11C of this chapter. A "qualified purchaser" shall not be permitted to

own more than one low- and moderate-income unit at the same time.

REGIONAL MEDIAN INCOME, HUNTERDON - MIDDLESEX - SOMERSET - WARREN — Refers to the annual median income for the prospective need region of Hunterdon, Middlesex, Somerset and Warren Counties utilizing the United States Department of Housing and Urban Development's Section 8 income limits.

REHABILITATION UNIT — A previously deficient housing unit which has undergone significant renovation to meet municipal or other applicable housing code standards as further described in N.J.A.C. 5:93-5.2 (B), as amended and supplemented. [Added 7-26-1995 by Ord. No. 17-1995]

RETURN-ON-ASSETS INCOME — When the household's total net family assets exceed \$5,000, the gross aggregate household income shall include the dollar amount resulting from multiplying the value of the household's total net family assets by 10% after excluding the first \$5,000 in assets.

SET-ASIDE — The percentage of housing units devoted to low- and moderate-income households within an inclusionary development. [Added 7-26-1995 by Ord. No. 17-1995]

SUBSTANDARD HOUSING UNIT — A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes a roof, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) and/or a load bearing structural system. [Added 7-26-1995 by Ord. No. 17-1995]

§ 17A-3.1. Other definitions. [Added 2-28-1996 by Ord. No. 3-1996]

Words that are not defined in this chapter but which are defined in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., the Substantive Rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:93-1 et seq., and/or the Land Development Ordinance of the Borough of Helmetta as set forth in Chapter 40 of the Code of the Borough of Helmetta shall, for the purposes of this chapter, have the meaning ascribed to them therein.

§ 17A-4. Affordable Housing Agency and controls. [Amended 3-11-1993 by Ord. No. 5-1993]

- A. Creation. There is hereby created an Affordable Housing Agency ("Agency") of the Borough of Helmetta.
- B. Composition. The borough's Affordable Housing Agency shall consist of the Housing Affordability Service within the New Jersey Department of Community Affairs. [Amended 11-8-2000 by Ord. No. 18-A]
- C. Power and duties. The powers and duties of the Agency shall be as follows:
 - (1) The Agency shall administer resale and rental controls for the Borough pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the New Jersey Housing and Mortgage Finance Agency regulations for housing units as required by law and specified in this chapter.
 - (2) The Agency shall request the governing body of the Borough to assist it with any marketing efforts, local advertising or distribution of materials in accordance with established marketing

requirements of the Agency as well as any other information required to comply with the requirements and procedures of the Fair Housing Act as referenced in this chapter.

- (3) The Agency shall ensure the affordability of sales and rental units, including rehabilitated units, over time. The Agency shall be responsible for affirmative marketing, income qualifications of low- and moderate-income households, placing income eligible households in low- and moderate-income units upon initial occupancy, placing income-eligible households in low- and moderate-income units as they become available during the periods of affordability controls and enforcing the terms of the deed restriction and mortgage loan. [Added 7-26-1995 by Ord. No. 17-1995]

D. Appropriation and accountability.

- (1) Start-up costs necessary to enable the Agency to establish rules, regulations and guidelines shall include but not be limited to attorney's fees, accountant's fees and fees for other required professional services.
- (2) The start-up costs, which will not exceed \$20,000, shall be reimbursable to the Borough of Helmetta from the trust fund which is established pursuant to the Mount Laurel consent order.
- (3) The Mayor may appoint any special counsel, accountants, financial investigators and professional planners required so that the Agency can carry out its duties and responsibilities. All developers of low- and moderate-income units shall be required to pay application fees at the time of submission for site plan approval. Said fee shall be equal to \$250 per lower-income unit and shall be paid prior to the issuance of a building permit for the lower-income unit.

(4) In addition to the above fees, each and every applicant will pay a nonrefundable application fee to the agency in the amount of \$25 for each and every application.

(5) The Agency shall report to the Mayor and Council.

E. The Borough of Helmetta shall contract with the Middlesex County Housing and Community Development Agency, or such other agency as may be approved by the New Jersey Council on Affordable Housing (COAH), to administer the Borough's Rehabilitation Program, which shall include processing of applications, determination of income qualification of low- and moderate-income households and administration of construction activities for rehabilitation projects. **[Added 7-26-1995 by Ord. No. 17-1995]**

§ 17A-5. General provisions.

- A. Wherever reference is made to low- or moderate-income housing in the borough's Zoning Ordinance,² 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 rerented except to a household that has been qualified as a low-income household by the Agency. The provisions of this subsection shall apply equally to qualified low- and moderate-income units or renters in

² Editor's Note: See Ch. 40, Land Development, which is published in a separate volume.

terms of controls on sale, resale, rental or rere rental of any low- and moderate-income unit.

- C. 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. Prospective purchasers of low- and moderate-income units shall receive, prior to or simultaneously with the execution of the contract to purchase a low- and moderate-income unit, a copy of the affordable housing plan and shall execute a disclosure statement which briefly summarizes the salient features of the use, occupancy and resale restrictions applicable to the occupancy and resale restrictions applicable to the low- and moderate-income unit. It shall be the developer's responsibility to provide such for the initial sales and the subsequent owner's responsibility to provide the same for resales. The developer shall record the affordable housing plan prior to conveying any title to any individual low- and moderate-income unit, and the deeds and leases of individual low- and moderate-income units must reference such recorded affordable housing plan.
- E. The Borough of Helmetta shall forever receive full credit toward its then current total fair share obligation as may be determined from time to time, so long as the then current total fair share obligation includes previous fair share obligations for all low- and moderate-income units developed pursuant to this chapter and so long as such lower-income units are actually sold, resold, used, occupied, rented, rere rented and maintained in full and complete compliance with the provisions of this chapter, including but not limited to those provisions covering hardship, foreclosure and exempt transactions and the affordable housing plan.

- F. The bylaws of the homeowners' association shall provide that the proportional relationship between condominium fees initially assessed against market units and lower-income units upon initial sale shall be held constant over time with changes in the assessments. Further, the public offering statement for any market units in inclusionary developments shall clearly disclose this proportional relationship to prospective purchasers.
- G. The Substantive Rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:93-1 et seq., as amended and supplemented, shall be incorporated into this chapter by reference. **[Added 7-26-1995 by Ord. No. 17-1995]**
- H. **[Added 7-26-1995 by Ord. No. 17-1995]** This section shall be applied to all residential development occurring within the R-15, R-10, R-7, R-7SC, R-6, R-5, RM-GF, RM-T and L-I Zoning Districts when the tract of land proposed for development meets the following minimum area requirements:

Zoning District	Area of Tract (square feet)
R-15	70,000
R-10	50,000
R-7 and R-7SC	45,000
R5	25,000
RM-GF	50,000
RM-T	40,000
R-6	30,000
L-I	35,000

and yielding the following gross densities:

Zone Designation	Density Designation
R-15, R-10	4
R-7, R-6, R-5	4 to 6
R-7SC	5 for detached single-family dwellings; 6 or more for detached two-family dwellings
RM-GF	6
RM-T	4
L-I	6

- I. [Added 7-26-1995 by Ord. No. 17-1995] Residential development applications which meet the affordable housing development criteria set forth in § 17A-5H shall provide the following applicable affordable housing set-aside(s):

Gross Density (units/acre)	Set-aside
4	15%
5	17.5%
6 or more	20%

- J. Option to constructing inclusionary low- and moderate-income housing units. [Added 7-26-1995 by Ord. No. 17-1995]

(1) Developers of inclusionary developments may choose to contribute \$10,000 per required dwelling unit set-aside for affordable housing for rehabilitation purposes in lieu of construction of 50% of their required inclusionary low and moderate income housing units. The in-lieu contributions shall be expended on the rehabilitation of substandard housing units occupied by low- and moderate-income

households, pursuant to N.J.A.C. 5:93-1 et seq. via the rehabilitation program administered by the Middlesex County Public Housing Agency, Housing and Community Development Consortium for the Borough of Helmetta. In-lieu contributions shall be remitted to the Borough of Helmetta pursuant to the following schedule:

Minimum Percentage of Low- and Moderate-Income Units Set-Aside for In-Lieu Contributions	Percentage of Market Housing Units Completed
0%	25%
10%	25% + 1 unit
50%	50%

(2) All in-lieu contributions shall be deposited in the Borough of Helmetta Housing Trust Fund as set forth in Section 17A-12 of this chapter.

K. [Added 7-26-1995 by Ord. No. 17-1995] Schedule for construction of low- and moderate-income housing units in an inclusionary development:

Minimum Percentage of Low- and Moderate-Income Housing Units Completed	Percentage of Market Housing Units Completed
0%	25%
10%	25%+ 1 unit
50%	50%
75%	75%
100%	90%

L. Low- and moderate-income units shall be integrated with market rate units. [Added 7-26-1995 by Ord. No. 17-1995]

M. Low- and moderate-income units shall utilize the same heating source as market rate units within the

inclusionary development. [Added 7-26-1995 by Ord. No. 17-1995]

N. Distribution of low- and moderate-income units. [Added 7-26-1995 by Ord. No. 17-1995]

- (1) At least half of all units within each inclusionary development shall be affordable to low-income households.
- (2) At least half of all rental units shall be affordable to low-income households
- (3) At least one-third of all units in each bedroom distribution, as set forth in § 17A-5, Subsection O, shall be affordable to low income-households.

O. [Added 7-26-1995 by Ord. No. 17-1995] Bedroom distribution. The following bedroom distribution shall be provided within an inclusionary development:

Bedrooms Per Unit	Percentage of Low- and Moderate-Income Units
Efficiency and one-bedroom combined	10% to 20%
Two bedrooms	At least 30%
Three bedrooms	At least 20%

§ 7A-6. 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.

§ 17A-7. Sale price and rental charges.

Prior to the sale, resale, rental or rerelease 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. Estimated maximum initial sales prices for units.

- (1) As part of the preliminary site plan application submittal to the Planning Board by a developer for a development containing low- and moderate-income units, the developer shall also submit to the Agency information demonstrating the mortgage financing generally available to low- and moderate-income unit home buyers and the developer's calculations as to the estimated maximum sale prices in accordance with Subsection B below.
- (2) The Agency shall review the developer's calculations and shall determine the estimated 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 developer of said estimated maximum sales prices (upon request) and prior to issuance of any certificates of occupancy. No certificates of occupancy shall be issued for any low- and moderate-income housing units until the agency shall certify that the proposed buyer is qualified and that the price is affordable.

B. Actual maximum initial sales prices for units.

- (1) The initial price of a low and moderate income owner-occupied single family housing unit shall be established so that after a down payment of 5%, the monthly principal, interest, insurance, property taxes and condominium or homeowner fees shall not exceed 28% of the eligible gross monthly income. Master deeds of inclusionary developments shall regulate condominium or homeowner association or special assessments of low and moderate income purchasers at a rate of one-third of those paid by market purchasers. **[Amended 7-26-1995 by Ord. No. 17-1995]**
- (2) The maximum average rent and price of low and moderate income units within each inclusionary development shall be affordable to households earning 57.5 percent of median income as determined by the New Jersey Council on Affordable Housing. In averaging 57.5 percent, developers of rental units may establish one rent for a low-income unit and one rent for a moderate-income unit for each bedroom distribution as set forth in this chapter. **[Amended 7-26-1995 by Ord. No. 17-1995]**
- (3) At least a minimum of 30 days prior to the developer's anticipated need 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 home buyers and the developer's calculations as to maximum initial sales prices. The interest rate used by the developer in calculating the maximum sales price shall be the rate that the Agency determines to be generally available locally for a ninety-percent, thirty-year fixed-rate mortgage.
- (4) The calculation to establish the purchase price of the unit shall take into consideration the going interest rate for thirty-year fixed-rate of interest as

listed and available in the Borough of Helmetta. If the actual fixed rate of interest offered by the developer shall be less than the local market rate, then that interest rate shall be used for these calculations. The effective rate, in any case, shall be the annual percentage rate (which shall include points).

- (5) The Agency shall use this information to determine the maximum initial sales prices for the different sized units in each income category as described above. The Agency shall certify the actual maximum initial sales prices to the Planning Board, the developer and the Construction Official in charge of issuing building permits within 30 days of submission of complete information by the developer. No building permits, except for complete models, including models of non-lower-income units, foundation permits for units other than models, permits for underground utilities and site development work, shall be issued until the maximum initial sales prices have been certified by the Agency. 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.

C. Maximum resale prices. Prior to the resale of 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: increases in the regional median income; the cost or value of improvements to the property made by the owner, as determined in accordance with the rules and regulations established pursuant to § 17A-4D(7); prevailing financing terms generally available in the market; and 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.

D. Maximum rental charges for units.

- (1) Gross rents, including an allowance for utilities, shall not exceed 30% of the gross monthly income of the appropriate household size, pursuant to N.J.A.C. 5:93-7.4, as amended and supplemented. **[Amended 7-26-1995 by Ord. No. 17-1995]**
- (2) (Reserved)³
- (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, on average, be affordable to households earning 57.5% of the median income.
- (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 charges in the median income for the region of which Helmetta is a part.
- (5) 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.

³ Editor's Note: Former § 17A-7D(2), regarding monthly utility charges, was repealed 7-26-1995 by Ord. No. 17-1995

- (6) The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases.

E. Relationship between household size and unit size.

- (1) 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:

Unit Size (bedrooms)	Household Size (persons)
Efficiency	1
1	2
2	3
3	5
4	7

- (2) Any room other than a bathroom, kitchen, dining area or living room, which was initially designed for regular sleeping by regular members of the household shall be considered a bedroom for purposes of calculating the maximum initial sales prices. No alterations or improvements by owners after initial occupancy shall increase the number of bedrooms unless the total area of habitable living space is increased by an amount at least equal to the new area being claimed as a new bedroom.

F. Criteria for establishing maximum prices; availability of different prices. [Added 7-26-1995 by Ord. No. 17-1995]

- (1) The following criteria in conjunction with realistic market information shall be used in establishing maximum rents and sale prices:

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- (a) Efficiency units shall be affordable to one-person households.
 - (b) One bedroom units shall be affordable to 1.5 person households. [Amended 11-8-2000 by Ord. No. 18-A]
 - (c) Two bedroom units shall be affordable to three person households. [Amended 11-8-2000 by Ord. No. 18-A]
 - (d) Three bedroom units shall be affordable to 4.5 person households. [Amended 11-8-2000 by Ord. No. 18-A]
- (2) Moderate-income sales units shall be available for at least three different prices, and low income sales units shall be available for at least two different prices.

§ 17A-8. Uniform deed restriction; length of controls; annual indexed increases. [Amended 7-26-1995 by Ord. No. 17-1995]

A. Uniform deed restriction

- (1) No certificate of occupancy for initial occupancy of a low- or moderate-income sales unit shall be issued by the Borough of Helmetta unless there is a written determination by the Agency that the unit is to be controlled by a deed restriction and mortgage lien as adopted by the Council on Affordable Housing. The Agency shall make such determination within 10 days of receipt of a proposed deed restriction and mortgage lien. Amendments to the deed restriction and lien shall be permitted only if they have been approved by the Council on Affordable Housing.
- (2) The Borough of Helmetta shall not permit the initial occupancy of a low- or moderate-income sale unit prior to issuance of a certificate of occupancy in accordance with the provisions of this chapter.

- (3) No certificate of reoccupancy for any occupancy of a low- or moderate-income sales unit resulting from a resale shall be issued by the Borough of Helmetta unless there is a written determination by the Agency that the unit is to be controlled by deed restriction and mortgage lien prior to issuance of a certificate of occupancy regardless of whether the sellers had executed the deed restriction and mortgage lien adopted by the Council on Affordable Housing upon acquisition of the property. The Agency shall make such determination within 10 days of receipt of a proposed deed restriction and mortgage lien.
- (4) A certificate of reoccupancy shall not be required in sales for which controls are allowed to expire.
- (5) The mortgage lien and the deed restriction shall be filed with the records office of Middlesex County. The lien and deed restriction shall be in the form adopted by the Council on Affordable Housing.
- (6) The deed restriction, including the repayment clause, and the mortgage lien shall have priority over all mortgages on the property except for a first mortgage placed on the property by the mortgagee prior to the expiration of resale controls.

B. Length of controls.

- (1) Newly constructed low- and moderate-income sales units shall remain affordable to low- and moderate-income households for 20 years.
- (2) Newly constructed low- and moderate-income rental units shall remain affordable to low- and moderate-income households for 30 years.

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- (3) Housing units created through conversion of a nonresidential structure shall be considered a new housing unit and shall remain affordable pursuant to Subsection B1 and B2 above.
- (4) Rehabilitated owner-occupied single-family housing units that are improved to code standard shall be subject to affordability controls for six years.
- (5) Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for 10 years.

C. Annual indexed increases.

- (1) The price of an owner-occupied housing unit may increase annually based on the percentage increase in the regional median income limit for the housing region as determined by the Council on Affordable Housing. In no event shall the maximum resale price established by the Agency be lower than the last recorded purchase price.
- (2) With the exception of rentals constructed pursuant to low-income tax credit regulations, the rent of a low- or moderate-income housing unit may be increased annually based on the percentage increase in the housing consumer price index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income tax credit regulations shall be indexed pursuant to the regulations governing low-income tax credits.
- (3) The procedures for initial sales, resale prior to the expiration of controls and rentals shall be executed pursuant to N.J.A.C. 5:93-9.16, as amended and supplemented.
- (4) The verification and certification procedures for placing households in low- and moderate-income units shall be executed pursuant to N.J.A.C. 5:93-9.1, as amended and supplemented.

§ 17A-9. Exemptions.**A. Exempt transactions.**

- (1) The following transactions shall be deemed nonsales for the purposes of this chapter and the affordable housing plan, and the Agency shall issue a statement of exemption to the owner receiving title by virtue of any of the following transactions:
 - (a) Transfer of ownership to a low- and moderate-income unit between husband and wife.
 - (b) Transfer of ownership of a lower-income unit between former spouses ordered as a result of a judicial decree of divorce or judicial decree of separation (but not including sales to third parties).
 - (c) Transfer of ownership of a lower-income unit between family members as a result of inheritance.
 - (d) Transfer of ownership of a low- and moderate-income unit through an executor's deed to any person.
 - (e) Transfer of ownership of a low- and moderate-income unit through an order of the Superior Court or other court.
- (2) Such transfer of ownership neither extinguishes the restrictions and applicability of this chapter or the affordable housing plan to such low- and moderate-income unit nor terminates any liens set forth under this plan. Liens must be satisfied in full prior to the subsequent resale of the low- and moderate-income unit and all such subsequent resales are fully subject to the

(Cont'd on page 17A19)

terms and provisions of this chapter and the affordable housing plan.

B. Hardship exemptions. Under certain conditions, there may be hardship exemptions.

(1) Provisions applicable to sales by the developer.

(a) At the same time the developer initiates the approved affirmative marketing program, the developer will notify the Agency and request the names of qualified applicants from the Agency.

(b) If, after a period of six (6) months from the date the developer requested the names from the Agency, the Agency has not forwarded sufficient names of qualified applicants to the developer and, but for the lack of sufficient applicants, a certificate of occupancy has been issued for the dwelling which the developer seeks to exempt, then the developer may make application to the Borough Council for exemption.

(c) The Borough Council will schedule a hearing with the developer so that the developer will be afforded the opportunity to prove compliance with the affirmative marketing plan and that the Agency has failed to provide an adequate number of qualified applicants. If the developer proves that he has complied and the Agency has failed to provide an adequate number of qualified applicants, then the Council shall exempt the unit. In the event that a unit becomes exempt, the exemption shall apply only to the income requirements of the applicant with the maximum price or rental requirements remaining unchanged.

(2) Provisions applicable to other than initial sales or rentals.

(a) Owners or the developer may only apply to the Agency for a hardship exemption one hundred twenty (120) days after such owner or developer has notified the Agency that such low- and moderate-income unit is available for resale or rental to

qualified low- and moderate-income households. However, once sold to a qualified purchaser, a for-sale unit must be resold rather than rented; subject, however, to the condition that one (1) interim lease of no longer than twelve (12) months is permitted if needed to allow the qualified homeowner an adequate opportunity to market the unit.

- (b) In order for such owner or developer to be entitled to a hardship exemption from the Agency, such owner or developer must show the Agency that the one-hundred-twenty-day time period has lapsed; the owner or developer has been affirmatively marketing such unit in accordance with the affirmative marketing requirement for such time period; no qualified purchaser is obligated under a contract to purchase or lease to rent, as the case may be, for such low- and moderate-income unit; and there is no reasonable expectation that the owner or developer will be able to resell or rent a unit in accordance with the affirmative marketing requirements.
- C. Procedural requirements for issuance of a statement of exemption for both exempt transactions and hardship exemptions.
- (1) The Agency must act upon an application for a statement of exemption within thirty (30) working days of receipt of such application.
 - (2) The Agency shall approve the application for a statement of exemption if the Agency finds that the applicant has met its burden of proof as described above in Subsection B(1)(b) and (2)(b) or Subsection A above.
 - (3) If the Agency fails to approve, deny or conditionally approve an application within such thirty-day period, such failure to act shall be deemed to be an approval by the Agency of the application for a statement of exemption.

- (4) The Agency shall issue a written decision to the applicant after making its decision. If the application is approved, the Agency shall issue to the applicant a statement of exemption in recordable form describing the specific low- and moderate-income unit covered by the statement of exemption.
 - (5) The original of the statement of exemption shall be given to the purchaser at the time of closing of title and shall be recorded simultaneously with the deed or to the tenant prior to taking possession and occupancy of the applicable low- and moderate-income unit.
- D. Effect of statement of exemption for both hardship exemptions and exempt transactions.
- (1) A statement of exemption issued pursuant to Subsection B (hardship) above shall authorize the owner or applicant to sell or rent the particular low- and moderate-income unit to a household whose gross aggregate income is up to fifty percent (50%) higher than the original relevant income ceilings applicable to such low- and moderate-income unit as determined in accordance with § 17A-6 of this chapter.
 - (2) A statement of exemption issued in accordance with Subsection A (exempt transactions) above shall permit the named grantee or lessee to receive title or possession of the particular low- and moderate-income unit in the same manner as a qualified purchaser.
 - (3) The statement of exemption under Subsection A or B above shall exempt only the specific sale or rental transaction for which it was issued.
 - (4) The statement of exemption under Subsection A or B above shall deem the grantee or lessee to be a qualified purchaser of such low- and moderate-income unit for purposes of this chapter and the affordable housing plan.
 - (5) The statement of exemption under Subsection A or B above shall only relieve the specific transaction of the restriction of selling, reselling or renting such low- and moderate-income unit to only qualified purchasers. All

other restrictions, requirements and provisions of this chapter and the affordable housing plan shall remain in full force and effect, including but not limited to the maximum sales prices and rental charges which are established pursuant to § 17A-7 of this chapter.

- (6) The restrictions of resale or rental to only qualified purchasers shall apply to subsequent resales or rentals of the particular low- and moderate-income unit unless a new statement of exemption is issued by the Agency in accordance with the provisions of this chapter.
- (7) Nothing shall preclude the Agency from purchasing the specific low- and moderate-income unit and holding, renting or conveying it to a qualified purchaser, provided that such right is exercised prior to the owner's signing a valid contract to sell such low- and moderate-income unit and that such right is further exercised before the expiration of the applicable time period.

E. Foreclosure and first purchase money mortgages.

- (1) Provisions for first purchase money mortgagees:
 - (a) The terms and restrictions of this chapter and the affordable housing plan shall be subordinate only to the first purchase money mortgage lien on any low- and moderate-income unit and in no way shall impair the first purchase money mortgagee's ability to exercise the contract remedies available to it in the event of default as such remedies are set forth in the first purchase money mortgage documents for the unit.
 - (b) So long as the first purchase money mortgage is not sold to the Federal National Mortgage Association or in the secondary mortgage market, the first purchase money mortgagee and/or mortgage servicer shall serve written notice upon the Agency within ten (10) days after the first purchase money mortgage is three (3) months in arrears and within ten (10) calendar days of the filing of the complaint

seeking foreclosure of the first purchase money mortgage held on a low- and moderate-income unit.

- (c) The obligation of the first purchase money mortgagee and/or servicer to notify the Agency shall cease automatically and immediately upon the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market, unless the rules and regulations are amended so as to not prohibit or exclude placing such obligation, in which case an instrument duly evidencing the same must be recorded with the office of the Clerk, Middlesex County, New Jersey, and the Clerk of the Borough of Helmetta before any such obligation shall exist.
- (d) Provided that the first purchase money mortgagee is obligated to give the Agency the above-mentioned notices, the first purchase money mortgagee shall also serve written notice of any proposed foreclosure sale upon the Agency at least thirty (30) days prior to the first scheduled date of such sale.
- (e) The first purchase money mortgagee shall serve notice upon the Agency within thirty (30) days of the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market.
- (f) The Borough of Helmetta and/or the Agency or any instrumentality designated by the borough shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment or within the redemption period thereafter. Notification of a default and of the institution of a foreclosure action and of a Sheriff's sale shall be served in writing upon the Chairman of the Agency as aforesaid. The Borough of Helmetta shall at all times be considered a party defendant and/or shall have the right to intervene in any foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's

equity of redemption or to acquire the unit from the owner upon such terms and conditions as may be determined by the Agency.

- (g) In the event of foreclosure, the agency shall attempt to identify a qualified low- and moderate-income purchaser, as the case may be, and shall give notice to the foreclosing party, and effort shall be made within the confines of the applicable foreclosure laws to sell the housing unit to qualified low- and moderate-income households. If such efforts are unsuccessful, the restrictive covenants shall remain in full force and effect. In any case, the borough shall not lose credit for the low- and moderate-income unit relating to which the foreclosure proceeding took place.
- (2) Effect of foreclosure. Any low- and moderate-income unit which is acquired by a first purchase money mortgagee by deed in lieu of foreclosure or by any purchaser at a mortgage foreclosure sale conducted by the holder of the first purchase money mortgage, including the first purchase money mortgagee but excepting the defaulting mortgagor, shall be permanently released from the restrictions and covenants of this plan, and all resale restrictions shall cease to be effective as to the first purchase money mortgagee and all subsequent purchasers and mortgagees of that particular unit, except for the defaulting mortgagor, who shall be forever subject to the resale restrictions of this plan with respect to the unit owned by him at the time of his default. The Agency shall execute a document in recordable form evidencing that such lower-income unit has been forever released from the restrictions of the chapter and the affordable housing plan. Execution or foreclosure sale by any other class of creditor or mortgagees shall not result in a release of the unit from the provisions and restrictions of this chapter or the affordable housing plan.
- (3) Surplus funds. In the event of a foreclosure sale by the holder of the first purchase money mortgage, the owner shall be personally obligated to pay to the agency any

surplus funds. For purposes of this subsection, "surplus funds" shall be the total amount paid to the Sheriff in excess of the greater of the maximum resale price of the unit pursuant to § 17A-7C and the amount required to pay and satisfy the first purchase money mortgage, including the costs of foreclosure plus any second mortgages approved by the Agency in accordance with § 17A-4D(7) of this chapter. Surplus funds shall also include all payments to any junior creditors out of such surplus funds, even if such were to the exclusion of the owner. The Agency shall be given a first-priority lien, second only to the first purchase money mortgagee of a unit and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such surplus funds. This obligation of the owner to pay this full amount of surplus funds to the Agency shall be deemed to be a personal obligation of the owner of record at time of the foreclosure sale, and the Agency shall be empowered to enforce the obligation of the owner in any appropriate court of law or equity as though the same were a personal contractual obligation of the owner. Neither the first purchase money mortgagee nor the purchaser at the foreclosure sale shall be responsible or liable to the Agency for any portion of this excess. The Agency may utilize up to thirty percent (30%) of the surplus funds realized in any one (1) calendar year, but in no event to exceed ten thousand dollars (\$10,000.) per calendar year, for the purpose of funding operating expenses of the year for the Agency. Other surplus funds shall be used for increasing the opportunities for affordable housing within the borough in accordance with the provisions of this chapter.

(4) Owner's equity.

- (a) Owner's equity shall be determined to be the difference between the maximum resale price of the unit as calculated in accordance with § 17A-7C and the total of the assessments, property taxes and other liens which may have been attached against

the unit prior to the foreclosure, provided that such total is less than the maximum resale price.

- (b) If there are sums to which the owner is properly entitled, such sums shall be turned over to the owner or placed in an escrow account by the Agency for the benefit of the owner for a maximum period of two (2) years. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Agency.
- (c) This provision is subject, however, to applicable laws of the State of New Jersey governing the distribution and payment of proceeds of foreclosure sales.

§ 17A-10. Affirmative marketing plan.

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 Hunterdon, Middlesex, Somerset and Warren County region and, at a minimum, in the following communities: New Brunswick, Perth Amboy, Phillipsburg and Somerville. The plan shall also require the developer to notify agencies such as other fair housing centers, housing referral organizations and government social service and public welfare departments located in Hunterdon, Middlesex, Somerset and Warren Counties and the communities listed above on a regular basis of the availability of any low- and moderate-income units.

§ 17A-11. Responsibilities, violations and penalties.

A. Developer's responsibilities.

- (1) The responsibilities of the developer shall include but not be limited to the following:

- (a) Submission of information as to financing terms readily available to low- and moderate-income households for use by the Agency in computing maximum sales prices.
 - (b) Submission of an affordable housing plan and an affirmative marketing plan to the Agency for approval, and submission of proofs of publication to ensure compliance with said plan.
 - (c) The marketing of all low- and moderate-income units in accordance with the requirements of this chapter.
 - (d) Submission of quarterly 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, including household size, number of bedrooms in the unit, sales price and monthly carrying costs or, in the case of rental units, the monthly rental charges and utilities included.
- (2) The developer's responsibilities hereunder shall expire automatically with respect to for-sale low- and moderate-income units upon the date upon which the last low- and moderate-income unit within the particular development is sold by the developer. With respect to rental low- and moderate-income units, the developer's responsibilities shall be assumed by the landlord and shall be performed by the landlord so long as such unit is a rental low- and moderate-income unit and subject to the restrictions of this chapter.

B. Responsibilities of owners.

- (1) In the event that any first mortgagee or other creditor of an owner of a low- and moderate-income unit exercises its contractual or legal remedies available in the event of default or nonpayment by the owner of a low- and moderate-income unit, the owner shall notify the Agency, in writing, within ten (10) days of such exercise by the

first mortgagee or creditor and no later than ten (10) days after service of any summons and complaint.

- (2) Any owner of a low- and moderate-income unit shall notify the Agency within ten (10) days, in writing, of any default in the performance by the owner of any obligation under either the master deed of the condominium association, including the failure to pay any lawful and proper assessment by the condominium association, or any mortgage or other lien against the low- and moderate-income unit, which default is not cured within sixty (60) days of the date upon which the default first occurs.
 - (3) The owner shall not permit any lien other than the first purchase money mortgage, Agency-approved second mortgages and liens of the Agency to attach and remain on the property for more than sixty (60) days.
 - (4) The owner of a low- and moderate-income unit shall keep the unit in good repair and shall not commit waste thereon.
 - (5) The owner shall pay all taxes and public assessments and assessments by the condominium association levied upon or assessed against the unit, or any part thereof, as and when the same become due and before penalties accrue.
 - (6) If a low- and moderate-income unit is part of a condominium association, the owner, in addition to paying any assessments required to be paid by the master deed of the condominium, shall further fully comply with all of the terms, covenants or conditions of said master deed, as well as fully comply with all terms, conditions and restrictions of this chapter and the affordable housing plan.
 - (7) The owner will pay all charges of any utility authority when the same become due and before penalties accrue.
- C. Violation of this chapter or affordable housing plan. The interest of any owner may, at the option of the Agency, be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of this chapter or the

affordable housing plan which remain uncured for a period of 60 days after service of a written notice of violation upon the owner by the Agency.

- (1) The notice of violation shall specify the particular infraction and shall advise the owner that his or her right to continued ownership may be subject to forfeiture if such infraction is not cured within 60 days of receipt of the notice.
- (2) The provisions of this subsection may be enforced by the Agency by court action seeking a judgment which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.
- (3) Such judgment shall be enforceable, at the option of the Agency, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sales price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the Agency, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- (4) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Agency for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to

reimburse the Agency in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the Agency in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Agency for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the Agency for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the Agency. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Agency, whether such balance shall be paid to the owner or forfeited to the Agency.

- (5) Foreclosure by the Agency due to violation of this chapter and the affordable housing plan shall not extinguish the restrictions of this chapter and the affordable housing plan as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of this chapter and the affordable housing plan. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (6) If there are no bidders at the Sheriff's sale or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Agency may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference.

§ 17A-12. Affordable Housing Trust Fund. [Added 2-28-1996 by Ord. No. 3-1996]

- A. All in-lieu contributions shall be deposited with the Chief Financial Officer of the Borough of Helmetta. The Chief Financial Officer shall thereupon deposit the in-lieu contribution into a separate designated interest-bearing Affordable Housing Trust Fund. The developer contributions placed in the Affordable Housing Trust Fund shall be deemed "dedicated revenues" as such term is defined in N.J.S.A. 40A:4-36. In establishing the Affordable Housing Trust Fund, the Borough of Helmetta shall provide whatever express written authorization that may be required by the bank utilized by the Borough to direct the disbursement of developer contributions and to permit COAH to direct the disbursement of development fees pursuant to N.J.A.C. 5:93-8-17 and 5:93-8.18.
- B. Use of funds.
- (1) The Borough of Helmetta shall use revenues collected from in-lieu contributions for the rehabilitation of low-and moderate-income housing units and any regional contribution agreement (RCA). [Amended 11-8-2000 by Ord. No. 18-A]
 - (2) Rehabilitation costs shall include construction costs and administrative costs. No more than \$2,000 for each in-lieu contribution of \$10,000 shall be expended on administrative costs per housing unit rehabilitated. Construction costs shall average at least \$8,000 per unit, over a two-year period.
 - (3) The New Jersey Council on Affordable Housing shall, upon written request to the Borough's Chief Financial Officer, be provided access to all accounting for the established affordable housing trust fund, pursuant to COAH rules.