

Ordinance #2005-1017

**FAIR SHARE ORDINANCE FOR THE
BOROUGH OF MANVILLE**

This section of the Manville Code sets forth regulations regarding low and moderate income housing units in the Borough of Manville that are consistent with the provisions of N.J.S.A. 5:93 et. seq. These rules are pursuant to the Fair Housing Act of 1985 and Manville's constitutional obligation to provide its fair share of low and moderate income housing.

1. Manville's fair share obligation will be divided equally between low and moderate income households as per N.J.A.C. 5:93-2.20.

2. Except for inclusionary developments constructed pursuant to low income tax credit regulations:

a. at least half of all units within each inclusionary development will be affordable to low income households; and

b. at least half of all rental units will be affordable to low income households; and

c. at least one-third of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.

3. Inclusionary developments that are not age-restricted will be constructed in conjunction with realistic market demands so that:

a. the combination of efficiency and one bedroom units is at least 10 percent and no greater than 20 percent of the total low and moderate income units;

b. At least 30 percent of all low and moderate income units are two bedrooms units; and

c. At least 20 percent of all low and moderate income units are three bedrooms units; and

d. low and moderate income units that are age-restricted may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of age-restricted low and moderate income units within the inclusionary development.

4. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sales prices;

a. efficiency units will be affordable to a one person household; and

b. one bedroom units will be affordable to 1.5 person household; and

c. two bedrooms units will be affordable to three person households; and

d. three bedroom units will be affordable to 4.5 person households; and

e. median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:93-7.4(b); and

f. the maximum sales prices of low and moderate income units within each inclusionary development will be affordable to household earning no more than 70 percent of median income. In averaging an affordability range of 55 percent for sales units, the municipal ordinance will require moderate income sales units to be available for at least two different prices and low income sales units to be available for at least two different prices; and

g. for both owner-occupied and rental units, the low and moderate units will utilize the same heating source as market units within an inclusionary development; and

h. low income units will be reserved for

households with a gross household income less or equal to 50 percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than 80 percent of median income approved by COAH as per N.J.A.C. 5:93-7.4 (g); and

i. the regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.

5. For rental units, developers and/or municipal sponsors may:

a. Establish one rent for low income unit and one for moderate income unit for each bedroom distribution; and

b. Gross Rents, including an allowance for tenant-paid utilities, will be established so as not to exceed 30% of the gross monthly income of the appropriate household size as per N.J.A.C.5:93-7.4(f). The tenant-paid utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey;

c. The maximum rents of low and moderate income units within each inclusionary development will be affordable to households earning no more than 60% of median income. In averaging an affordability range of 52% for rental units, developers and/or municipal sponsors of rental units may establish one rent for a low income unit and one rent for a moderate unit for each bedroom distribution.

6. For Sale Units:

a. The initial price of a low and moderate income owner/occupied for-sale housing unit will be established so that after a down payment of 5%, the monthly principle, interest, homeowner and private mortgage insurance, property taxes, (based on the restricted value of the low and moderate income unit), and condominium or

homeowner fee do not exceed 28% of the eligible gross monthly income; and

b. Master Deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessment of low and moderate income purchasers at 100 percentage of those paid by market purchasers. This 100 percentage is consistent with the requirements of N.J.A.C. 5:93-7.4(e). Once established within the Master Deed, the 100 percentage will not be amended without prior approval from COAH; and

c. The Borough of Manville will follow the general provisions concerning uniform Deed restriction liens and endorsements through Certificates of Occupancy or Reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and

d. The Borough of Manville will require a Certificate of Reoccupancy for any occupancy of a low or moderate income sales unit resulting from a re-sale as per N.J.A.C. 5:93-9.3(c); and

e. Municipal, state, non-profit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5-9.8. Borough rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9; and

f. The continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and

g. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and

h. The regulations detailed in N.J.A.C. 5:93-9.12-9.14 will be applicable to low and moderate income units that are for sale units.

7. In zoning for inclusionary developments the

following is required:

a. Low and moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d);

Minimum Percentage of Low/Moderate Income Units Completed	Percentage of Market Housing Completed
0	25
10	25 + 1 Unit
50	50
75	75
100	90
	100

b. A design of inclusionary developments that integrates low and moderate income units with market rate units is encouraged as per N.J.A.C. 5:93-5.6(f).

8. The provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, the Borough of Manville will designate the Borough Administrator with the responsibility of ensuring the affordability of sales and rental units over time. the Borough Administrator will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

a. In addition, the Borough Administrator will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low and moderate income units; and

b. Newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least 30 years.

The Borough Administrator will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred as Technical Appendix as found in N.J.A.C. 5:93; and

c. Housing units created through the conversion of a

non-residential structure will be considered a new housing unit and will be subject to 30 year controls on affordability. The Borough Administrator will require COAH's appropriate deed restriction and mortgage lien.

9. Regarding Rehabilitated Units:

a. Rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least six years.

b. Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least ten years.

10. Regarding Rental Units:

a. Newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least 30 years. The Borough Administrator will require the deed restriction and lien and deed of easement referred as Technical Appendix H as found in N.J.A.C. 5:93; and

b. Affordability controls and accessory apartments will be for a period of at least ten years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability will extend for 30 years (N.J.A.C. 5:93-5.9);

c. Alternative living arrangements will be controlled in a manner suitable to COAH, the provides assurances that such a facility will house low and moderate income households for at least ten years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability will extend for 30 years (N.J.A.C. 5:93-5.8).

11. Section 14(b) of the Fair Housing Act N.J.S.A. 52:27D-301 et. seq. incorporates the need to eliminate unnecessary costs generating features from the Borough of Manville land use ordinances. Accordingly, the Borough of Manville will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track Borough approvals/denials on certain affordable housing developments. The Borough of Manville will adhere to the components of

N.J.A.C. 5-93-10.1-10.3.

12. The Borough of Manville has a cumulative first and second round fair share obligation of 25 rehabilitation units of which 0 are new construction. This Ordinance will apply to all developments that contain proposed low and moderate income units as well as any future developments that may occur.

Borough of Manville

Angelo Corradino, Mayor

ATTEST:

Philip E. Petrone, Borough Clerk

ORDINANCE #2005-1017

FIRST READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		ALLAN	√			
√		ASHER	√			
	√	OTRIMSKI	√			
		PETROCK	√			
		PETRONE	√			
		WEISS	√			
		MAYOR CORRADINO				

PASSED this 8th day of August, 2005.

Attest:

Philip E. Petrone, Borough Clerk

SECOND READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
√		ALLAN	√			
		ASHER	√			
	√	OTRIMSKI	√			
		PETROCK				√
		PETRONE	√			
		WEISS				√
		MAYOR CORRADINO				

PASSED this 26th day of September, 2005.

Attest:

Philip E. Petrone, Borough Clerk