

FOURTH ROUND UHAC RULES: WHAT'S NEW AND WHAT REMAINS



	Third Round Regulations Still in Effect	What is new to the Fourth Round (2025–2035)?
Bedroom Distribution	<p>Efficiency/one-bedroom units = no greater than 20%</p> <p>Two-bedroom units = at least 30%</p> <p>Three-bedrooms = at least 20%</p> <p>Remainder can be allocated at the developer’s discretion.</p> <p>Fractional numbers can be rounded up in either direction to the nearest whole number.</p>	<p>Number of bedrooms must be twice the number of affordable units. (Round up fractions).</p> <p>Two- or three-bedroom units – at least 50% of the affordable units. (Round up fractions).</p> <p>Age restricted or supportive – number of bedrooms in affordable units must be 2x the number of affordable units. (Round up Fractions).</p> <p>Age restricted or supportive housing containing 20 or more affordable units — two- and three- bedrooms = at least 5% of total affordable units. Penthouse and end-units can be reserved for market rate sale, so long as the number and distribution of the affordable units is not negatively impacted. (Round up fractions).</p>
Control Period	<p>For-sale units subject to 30-year control period minimum and until end of control period or the municipality elects to extend it.</p> <p>Any unit that received substantive certification from COAH previously, was part of a judgment of compliance, or subject to an agreement with the State or municipality, is still governed by those control periods.</p> <p>Control period begins when the first household takes title.</p> <p>Conveyances must be made by deed or restrictive covenant.</p> <p>Municipality previously held a right of first refusal to purchase at the time of the first non-exempt sale after a 30-year interval from the date of the initial CO.</p>	<p>30-year minimum, but the end of the control period can be specified in the deed restriction.</p> <p>Terminates at the first non-exempt sale at the end of the period.</p> <p>The municipality maintains a right of first refusal to extend the control period.</p> <p>Seller must provide the municipality 60 days’ notice.</p> <p>To exercise the right of first refusal, the municipality must:</p> <ol style="list-style-type: none"> 1. Notify the seller in writing 180 days prior to the end of the control period; and 2. Issue a new deed extending the control period (20 year-extension if the original control period and extension equal 60 years or greater); and 3. Either, the municipality purchases and conveys the unit to very-low, low, or moderate income purchaser; or 4. The municipality compensates the owner. <p>Rental units subject to a minimum 40-year control period.</p> <p>Control period for rentals begins on the date the CO is issued and ends when control period in the deed restriction expires or the municipality releases the unit after 40 years.</p>
Phasing	<p>25% market rate + 1 = 25% of affordable units.</p> <p>50% market rate = 50% of affordable units.</p> <p>75% market rate = 75% of affordable units.</p> <p>90% market rate = 100% of affordable units.</p>	<p>25% market rate + 1 = 25% of affordable units.</p> <p>50% market rate = 50% of affordable units.</p> <p>75% market rate = 75% of affordable units.</p> <p>90% market rate = 100% of affordable units.</p>

<p>Income Distribution</p>	<p>New to Fourth Round.</p>	<p>At least 50% of total affordable units = low- or very-low income.</p> <p>50% efficiency or one-bedroom units = low-or very-low income.</p> <p>50% three bedroom units – low- or very-low income.</p> <p>50% four or more bedrooms = low- or very-low income.</p> <p>Very-low income units must be distributed between each bedroom count as proportionately as possible, to the nearest whole unit.</p>
<p>Building Standards</p>	<p>New to Fourth Round.</p>	<p>Affordable rentals must have the same building standards as market-rate units.</p> <p>Affordable rentals must be the same building type and within the same development.</p> <p>Affordable rental units cannot be physically clustered or located in less desirable areas of the development.</p> <p>Exception: Age-restricted and supportive housing may be clustered for ease of access to on-site medical and social services.</p> <p>Affordable rentals must be at least the same size as the most common market-rate unit of the same type and bedroom count.</p> <p>Every bedroom must have at least one window.</p> <p>Rentals are always governed by the above standards, even when mixed with for-sale units.</p> <p>For-sale affordable units can be clustered provided the building or housing types are integrated throughout the development.</p> <p>For-sale affordable units can be different housing product types, but if townhomes or single-family homes are offered as market rate options, the affordable units must also contain those options.</p> <p>Affordable units must maintain the minimum square footage for the number of inhabitants under NPBH rules or as stated in the local ordinance, whichever is greater.</p>

About the Authors



Donna M. Jennings, Esq. is a shareholder and co-chair of the Land Use Team at Wilentz, Goldman & Spitzer, P.A. in Woodbridge, New Jersey. She represents numerous developers before local municipal planning and/or zoning boards, and has litigated appeals in both state and federal courts on their behalf.



Anthony J. Zarillo III, Esq. is an associate on the Land Use Team at Wilentz, Goldman & Spitzer, P.A. in Woodbridge, New Jersey. He focuses his practice on all aspects of land use, redevelopment, and related litigation