

NANTUCKET HOUSING NEEDS COVENANT PROGRAM

GENERAL REGULATION

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PART I: EFFECTIVE DATE

1.1 This Regulation, to be known as the Nantucket Housing Needs Covenant Program General Regulation, became effective _____ and superseded "Nantucket Housing Needs Covenant Regulations (Ownership Dwelling Units), Nantucket Zoning Code, Chapter 139, Sec. 7(A)(2)(f) & Chapter 139, Sec. 7(G), As of March 21, 2003" as previously promulgated. Any decisions in effect on _____ relative to the superseded regulations shall remain in effect.

PART II: APPLICABILITY

2.1 This Regulation applies to matters relating to and arising under the Nantucket Housing Needs Covenant Program and all Subprograms and covenants

created thereunder, as contemplated and authorized by Chapter 100 of the Code of the Town of Nantucket, pursuant to Chapter 301 of the Acts of 2002.

2.2 Additional requirements for Subprograms of the Nantucket Housing Needs Covenant Program may be found in the promulgated regulations pertaining to those specific Subprograms. Notwithstanding the foregoing, the following general requirements apply to all Nantucket Housing Needs Covenant Programs, Subprograms and covenants, except that where specific Subprogram requirements differ from the following, the Subprogram requirements shall control.

PART III: DEFINITIONS

The definitions set forth below apply to all Nantucket Housing Needs Covenant Programs, Subprograms and covenants, except that where specific Subprogram definitions differ from the following, the Subprogram definitions shall control.

The Act - Chapter 301 of the Acts of 2002 of the General Court.

Appeal Board - The Authority, or a committee thereof, authorized by Chapter 100 of the Code of the Town of Nantucket, pursuant to the Nantucket Housing Needs Covenant Program Appeal Board Regulation, to hear and decide grievances, special reviews and waiver requests relative to the Program, this Regulation, and any Subprogram or regulations thereof.

Authority or NHA - Means the Nantucket Housing Authority or its Designee.

Designee - Means any successors, assigns, agents or contractors of the Authority duly authorized to represent the Authority.

Household - One or more individuals, regardless of familial relationship, who possess the present intent to share residency in an NHNC Unit, who in fact shall reside together in an NHNC Unit, whose incomes, assets and resources are available to support the needs of the household, and whose name(s) appear on the Household Affidavit; provided that any minor child of any member of a Household who in fact shares residency shall be part of the Household and their names shall appear on the Household Affidavit.

Nantucket County Median Family Income or MFI - Median family income for Nantucket County, Massachusetts as published from time to time by the U. S. Department of Housing and Urban Development (HUD), and as may be adjusted

pursuant to specific Subprogram requirements. As this definition may vary among Subprograms, please see specific Subprogram regulations for applicable definition.

Nantucket Housing Needs Covenant or NHNC – A recorded or registered restriction on real property, created under the Program or a Subprogram, intended to be enforceable by the Authority, for a defined term or in perpetuity, as the case may be, for the purpose of preserving the affordability of the real property so restricted.

The Program - The affordable housing program, known as the Nantucket Housing Needs Covenant Program, created under the Act, and Chapter 100 of the Code of the Town of Nantucket, including Subprograms, Nantucket Housing Needs Covenants, regulations, rules, requirements and all other aspects of the Program, all as may be adopted, amended and repealed from time to time.

Subprogram – An affordable housing program created under the Program, which regulates the terms of the purchase, sale and ownership of real property or the terms of the rental of real property.

PART IV: PURPOSE

4.1 Nantucket Housing Needs Covenant Program. The Program was established to generate, make available and preserve housing in the County of Nantucket that is affordable for a term or in perpetuity to people who earn less than 150% of the Nantucket County Median Family Income, and who wish to continue to reside on Nantucket. To achieve those objectives, and to maintain Nantucket's diversity and unique sense of community, participation in the Program is sought from those situated in lower income groups, as well as those situated in more moderate or middle-income groups.

4.2 The Authority, under the Program and Subprograms may regulate the terms of the purchase, sale and ownership of real property, or the terms of the rental of real property. Certain ownership Subprograms shall include maximum sale price and maximum resale price restrictions, income and asset limitations, occupancy requirements, and term or perpetual affordability restrictions, which shall be placed on the real property participating in such Subprograms. Certain rental Subprograms shall include maximum rent restrictions, minimum lease terms, income and asset limitations, occupancy requirements and term or perpetual affordability restrictions, which shall be placed on the real property participating in such Subprograms.

4.3 For illustration only, without limitation, there may be created a subprogram relating to the ownership of real property eligible to Households

earning not more than 80% of the Nantucket County Median Family Income. As further illustration, there may be designed a subprogram relating to the rental of real property eligible to Households earning not more than 100% of the Nantucket County Median Family Income.

PART V: ADMINISTRATION

5.1 Pursuant to the Act and to Chapter 100 of the Code of the Town of Nantucket, the Authority has been designated the agency to implement, administer, monitor and enforce the Program and regulations adopted thereunder.

5.2 At its discretion, the Authority may, pursuant to applicable law, implement the Program, or any aspects thereof, by agreement with qualified entities.

PART VI: ENFORCEMENT

6.1 The Authority, without limiting any remedies at law or in equity, may impose fines of not more than three hundred dollars (\$300.00) for each separate violation of the Program, including the submission of false information to the Authority with respect to any Program document or other representation regarding the Program. Each day or part thereof during which such violation occurs or continues shall constitute a separate violation.

6.2 The Authority, without limiting any remedies at law or in equity, may revoke Qualified Purchaser Certificates, Qualified Seller Certificates, Qualified Tenant Certificates and Qualified Landlord Certificates, or other approvals granted under the Program, for violations of the Program, including the submission of false information to the Authority with respect to any Program document or other Program representation.

PART VII: ADOPTION; AMENDMENT; REPEAL

7.1 This Regulation and any regulations adopted pursuant to Chapter 100 of the Code of the Town of Nantucket may be amended or repealed, in whole or in part, from time to time in accordance with the provisions hereunder.

7.2 The Authority shall conduct a public hearing prior to the adoption, amendment, or repeal of any regulation under the Program or Subprogram in

accordance with the following requirements and standards, and M.G.L. c. 39, Sections 23A and 23B.

(a) Publication. Notice of such public hearing shall be given at least 14 days prior to the date of the hearing. The Authority shall give notice of such hearing by:

- (i) Publishing notice in such newspapers, and, where appropriate, in such trade, industry or professional publications as the Authority may select;
- (ii) Notifying the Board of Selectmen of the Town of Nantucket by delivering or mailing a copy of the notice to the last known address of the Board of Selectmen;
- (iii) Notifying any person or group filing a written request for notice of Program rule making hearings, such request to be renewed annually in December, such notice to be given by delivering or mailing a copy of the notice to the last known address of the person or group requesting to be notified; and
- (iv) Filing a copy of such notice with the clerk of the Town of Nantucket.

(b) Notice. The notice shall contain the following:

- (i) The Authority's statutory authority to adopt, amend or appeal the proposed regulation;
- (ii) The time and place of the public hearing; and
- (iii) A description of the substance of the proposed regulation, amendment or appeal.

(c) Distribution of Regulation. During the period from publication of the notice to the date of final action by the Authority, pursuant to Section 7.2(e), the Authority shall provide a copy of the regulation(s) to be adopted, amended or repealed clearly setting forth the provision(s) being adopted amended or repealed to any party requesting such copy. A copy of the regulation(s) to be adopted, amended or repealed clearly setting forth the provision(s) being adopted amended or repealed shall be filed with the clerk of the Town of Nantucket.

(d) Public Comment. At the public hearing, there shall be a period during which any interested party may provide comments with respect to the regulation(s) to be adopted, amended or repealed.

(e) Authority Action. Within ninety (90) days of the close of the public hearing, the Authority shall take final action with respect to the regulation(s) to be

adopted, amended or repealed, including without limitation, the designation of a date upon which the action taken by the Authority with respect to said regulation(s) shall be come effective.

(f) Compiled Regulation. On or before the effective date determined pursuant to Section 7.2(e) hereinabove, the Authority shall produce a compiled regulation encompassing the final action taken with respect to the regulation(s) to be adopted, amended or repealed. The Authority shall provide a copy of the compiled regulation to any party requesting such copy. A copy of the compiled regulation shall be filed with the clerk of the Town of Nantucket.

PART VIII: APPEAL; SPECIAL REVIEW; WAIVER

8.1 Pursuant to Chapter 100 of the Code of the Town of Nantucket, Section 100-5, the Authority shall adopt rules and regulations relative to the Appeal Board and to the conduct of appeals, special reviews and waivers thereby, which shall be known as the Nantucket Housing Needs Covenant Program Appeal Board Regulation. Until such time as the Nantucket Housing Needs Covenant Program Appeal Board Regulation is adopted, the existing rules, regulations and procedures as set forth in the "Nantucket Housing Needs Covenant Regulations (Ownership Dwelling Units), Nantucket Zoning Code, Chapter 139, Sec. 7(A)(2)(f) & Chapter 139, Sec. 7(G), As of March 21, 2003," shall remain in effect.

PART IX: IMPLEMENTATION OF THE PROGRAM

9.1 In addition to the documents and forms identified in this Regulation, the Authority, from time to time, may develop, use and require other documents, forms, certificates, checklists, informational bulletins and the like, in order to implement, administer and enforce the Program and this Regulation.

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