

EXPLANATION: This Ordinance re-introduces regulations and restrictions for existing affordable housing approved and developed prior to the Third Round of affordable housing obligations.

**TOWNSHIP OF WARREN
ORDINANCE NO. 22-18**

**AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER XVI ENTITLED
“ZONING” OF *THE GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN* BY
REVISING SECTION 16-6 TO INCLUDE REGULATIONS AND RESTRICTIONS FOR
EXISTING AFFORDABLE HOUSING APPROVED AND DEVELOPED PRIOR TO THE
3RD ROUND OF AFFORDABLE HOUSING OBLIGATIONS.**

BE IT ORDAINED by the Township Committee of the Township of Warren, in the County of Somerset, State of New Jersey, as follows:

SECTION 1. This Ordinance revises Chapter XVI entitled “Zoning” by changing the title of Section 16-6 entitled “Affordable Housing Unit Regulations for R-R (AH), R-10 (AH), R-10 (AH/MF), R-40 (AH/MF), R-MF, AH-1, AH-2, AH-3, AH-4, AH-5, AH-6, AH-7, AH-8, UR-Lindberg Ave., UR- Mt. Bethel, UR-Mt. Horeb/Mt. Bethel and UR-Flag Plaza Districts” to read “Affordable Housing Unit Regulations for R-R (AH), R-10 (AH), R-10 (AH/MF), R-40 (AH/MF), R-MF, AH-1, AH-2, AH-3, AH-4, AH-5, AH-6, AH-7, AH-8, UR-Lindberg Ave., UR- Mt. Bethel, UR-Mt. Horeb/Mt. Bethel and UR-Flag Plaza Districts; Affordable Housing Unit Regulations for R-R (AH), R-10 (AH), R-10(AH/MF), R-40 (AH/MF) AND R-MF Districts for Affordable Housing Units Approved and Developed Prior to the 3rd Round of Affordable Housing Obligations.”

SECTION 2. This Ordinance further amends Subsection 16-6.1 to read as follows:

16-6.1 Purpose. The purpose of this section is to establish the Uniform Housing Affordability Controls (“UHAC”) and regulations for low and moderate income housing units in Warren Township that are consistent with the provisions of N.J.A.C. 5:80-26.1 et seq. effective as of December 20, 2004. These rules are pursuant to the Fair Housing Act of 1985 and Warren Township’s constitutional obligation to provide for its fair share of low and moderate income housing. This Ordinance intends to provide assurances that low-and moderate-income units (“affordable units”) are created with controls on affordability over time and that low-and moderate-income households shall occupy those units. This Ordinance shall apply, except where inconsistent with applicable law.

The Warren Township Planning Board has adopted a Housing Element and Fair Share Plan (“HEFSP”) pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. The HEFSP has been endorsed by the Township Committee. This Ordinance implements and incorporates the adopted and endorsed HEFSP and addresses the requirements of N.J.A.C. 5:93-1 et seq. as supplemented and amended, N.J.A.C. 5:80-26.1 et seq. as supplemented and amended, and the New Jersey Fair Housing Act of 1985.

Prior [S]ubsections 16-6.1 through 16-6.18 of the Warren Township Zoning Ordinance, adopted December 2, 1993, are preserved for the limited purposes of regulation of and restrictions for the existing affordable housing units which were approved and developed pursuant to N.J.A.C. 5:93 et seq. and subsections 16-6.1 through 16-6.18 referenced above, while the same were in effect. Those prior subsections are now made a part of this ordinance as subsections 16-6.24 through 16-6.41. All future affordable housing units constructed and/or restricted during the 3rd round will be governed by this Section 16-6.1 through 16-6.23. [The prior subsections 16-6.1 through 16-6.18 will be maintained by the Warren Township Clerk.]

SECTION 3. Section 16 is further amended to include new subsections 16-6.24 through 16-6.41 to read as follows:

16-6.24 Purpose. The purpose of subsections 16-6.24 through 16-6.41 is to establish the affordable housing districts pursuant to the New Jersey Council on Affordable Housing (hereinafter referred to as “COAH”) and further for setting forth regulations regarding low and moderate income housing units in Warren Township that are consistent with the provisions of N.J.A.C. 5:93 et seq. as effective on June 6, 1994 for existing affordable housing approved and developed prior to the 3rd Round of affordable housing obligations. These rules are pursuant to the Fair Housing Act of 1985 and Warren Township’s constitutional obligation to provide for its fair share of low and moderate housing.

16-6.25 New Construction. Warren Township’s new construction or inclusionary component will be divided equally between low and moderate income households as per N.J.A.C. 5:93-2.20.

16-6.26 Low and Moderate Income Unit Distribution. 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.

16-6.27 Bedroom Distribution. Inclusionary developments that are not restricted to senior citizens will be structured 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; and
- b. at least 30 percent of all low and moderate income units are two-bedroom units; and

c. at least 20 percent of all low and moderate income units are three-bedroom units;
and

d. low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.

16-6.28 Affordability; Stratification and Income Limits.

a. General requirements:

1. efficiency units will be affordable to one-person households; and
2. one bedroom units will be affordable to 1.5 person households; and
3. two bedroom units will be affordable to three person households; and
4. three bedroom units will be affordable to 4.5 person households; and
5. 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
6. the maximum average rent and price of low and moderate income units within each inclusionary development will be affordable to households earning 57.5 percent of median income; and
7. moderate income sales units will be available for at least three different prices and low income sales units will be available for at least two different prices; and
8. for both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development; and
9. low income units will be reserved for households with a gross household income less than 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 the median income approved by COAH as per N.J.A.C. 5:93-9.16; and
10. the regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.

b. Requirements for rental units: Developers and /or municipal sponsors may:

1. establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution; and
2. gross rents, including an allowance for utilities, will be established so as not to exceed 30 percent of the gross monthly income of the of the appropriate household size

as per N.J.A.C. 5:93-7.4 (a). The utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey.

c. Requirements for “For Sale” units:

1. the initial price of a low and moderate income owner-occupied single-family housing unit will be established so that after a down payment of five percent, the monthly principal, interest, homeowner’s insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed 28 percent of the eligible gross monthly income; and

2. The Township of Warren will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or re-occupancy on sale units as per N.J.A.C. 5:93-9.3 (c); and

3. The Township of Warren will require a certificate of re-occupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-9.9; and

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

5. 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

6. 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

7. 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.

16-6.29 Schedule for Inclusionary Developments.

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

Minimum % of Low/Moderate Income Units Completed	% of Market Housing Units Completed
0	25
10	25 +1
50	50
75	75
100	<u>90</u>
	100

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

16-6.30 Development Fee: A development fee ordinance was approved by COAH and adopted by Warren Township on March 4, 1992. (See Section 15-5.4).

16-6.31 Affordable Housing Agency: To 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, Warren Township will designate the Warren Township Committee with the responsibility of ensuring affordability of sales and rental units over time. The Warren Township Committee has contracted the administration of such responsibilities with an administrative agent (the “Administrative Agent”) as authorized by the Warren Township Committee. The Administrative Agent will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

a. in addition, the Administrative Agent 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 Administrative Agent will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred to as Appendix E 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 Administrative Agent will require an appropriate deed restriction and mortgage lien subject to COAH’s approval.

16-6.32 Rehabilitated Units; Regulations and Requirements:

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; and

b. rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least 10 years.

16-6.33 Rental Units; Regulations and Requirements:

a. newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least 30 years. The Administrative Agent will require an appropriate deed restriction and mortgage lien subject to COAH’s approval; and

b. affordability controls in accessory apartments will be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years; and

c. alternative living arrangements will be controlled in a manner suitable to COAH, that provides assurances that such a facility will house low and moderate income households for at

least 10 years, except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years.

16-6.34 Development Standards: Section 14(b) of the Fair Housing Act, N.J.A.C. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost-generating features from Warren Township’s land use ordinances. Accordingly, Warren Township has eliminated development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on inclusionary development applications. Warren Township will adhere to the components of N.J.A.C. 5:93-10.1-10.3.

16-6.35 Fair Share Obligation: Warren Township has a fair share obligation of 252 units, of which 6 are new construction. This ordinance will apply to all developments that contain proposed low and moderate income units that are listed below by block and lot numbers and any future developments that may occur:

- Block 74; Lot 5
- Block 74; Lot 6

16-6.36 Affirmative Marketing Plan.

a. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of sex, age or number of children, to housing units which are being marketed by a developer/sponsor, municipality and/or designated administrative agency of affordable housing. The plan will address the requirements of N.J.A.C. 5:93-11. In addition, the plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status, size or national origin. Warren Township is in the housing region consisting of Hunterdon, Middlesex and Somerset Counties. The affirmative marketing program is a continuing program and will meet the following requirements:

1. All newspaper articles, announcements and requests for applications for low and moderate income units will appear in the following daily regional newspapers/publications. (One major newspaper is sufficient as long as the combined outreach efforts attract sufficient applicants):

The Courier News

2. The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an “as needed” basis.

3. The advertisement will include a description of the:
- street address of units;
 - direction to housing units;
 - number of bedrooms per unit;

- range of prices/rents;
- size of units;
- income information; and
- location of applications, including business hours and where/how applications may be obtained.

4. All newspaper articles, announcements and requests for applications for low and moderate income housing will appear in the following neighborhood-oriented weekly newspapers, religious publications and organizational newsletters within the region:

Hunterdon Democrat
Echoes-Sentinel
SCOAH Newsletter

5. Regional radio and/or cable television station(s) will also be used.

6. The following is the location of applications, brochure(s), sign(s) and/or posters used as part of the affirmative marketing program including specific employment centers within the region:

Warren Township Administrative Building
Warren Township Library
Developer's Sales Office
Somerset County Library
AT&T
Chubb Institute
Bell Atlantic NJ

7. The following is a listing of community contact person(s) and/or organization(s) in Middlesex, Hunterdon and Somerset Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region:

SCOAH
Hunterdon County Housing Corp.
Middlesex County Housing Coalition

8. Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members:

Board of Realtors in Middlesex, Hunterdon and Somerset counties.
Applications will be mailed to prospective applicants upon request.

9. Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties of Middlesex, Hunterdon and Somerset:

Rental Assistance Office (Local office of DCA)
Office on Aging
Welfare or Social Service Board
Housing Agency Board
Library
Area Community Action Agencies

10. A random selection method is used to select occupants of low and moderate income housing. The Administrative Agent maintains listings of pre-qualified income eligible households and randomly selects prospective applicants as per N.J.A.C. 5:93-9.1. The Township Administrator within Warren Township is the designated housing officer to act as liaison to the Administrative Agent. The Administrative Agent will 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.

11. The Administrative Agent is the agency under contract with Warren Township to administer the affirmative marketing program. The Administrative Agent has 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 as per N.J.A.C. 5:93-9.1. The Township Administrator within Warren Township is the designated housing officer to act as liaison to the Administrative Agent. The Administrative Agent will 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.

12. Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. Warren Township intends to comply with N.J.A.C. 5:93-11.7.

13. All developers of low and moderate income housing units will be required to assist in the marketing of the affordable units in their respective developments.

14. The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all

low and moderate income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or re-occupancy of units continues to be necessary.

15. The Administrative Agent will comply with monitoring and reporting requirements as per N.J.A.C. 5:93-11.6 and 12.1.

16-6.37 Aesthetics. Low and moderate income housing units shall be designed and constructed in such a manner that they are in substantial, visual and aesthetic conformance with and complementary to other housing units in the developer's project.

16-6.38 Affordable Housing Districts. Affordable housing districts are as follows:

R-RAH	Affordable Housing
R-10	AH Affordable Housing
R-10	AH/MF Affordable Housing
R-40	AH/MF Affordable Housing
R-MF	Affordable Housing

16-6.39 Permitted Uses

- a. Single-family attached dwellings.
- b. Multi-family structures in districts designated MF subject to all terms and conditions set forth in COAH certification of the Warren Township Housing Plan.

16-6.40 Area, Yard and Building Requirements. Area, yard and building requirements as set forth in Schedule A of this subsection.

16-6.41 Conditional Use.

a. Senior citizen shared housing shall be allowed as a conditional use in the R-19 (AH/MF) District. This type of housing is recognized as single-family housing, as those residing therein are considered a family unit. The request for the use shall be made by application to the Planning Board, with public notice being made by the applicant as required by this chapter. The senior citizen shared housing shall be subject to the following requirements:

- (1) Such uses shall conform to all bulk regulations of the R-10 (AH/MF) District for single family dwellings.
- (2) No such housing shall contain more than six (6) bedrooms and each bedroom shall have no more than two (2) occupants. The Planning Board may permit up to twelve (12) bedrooms upon its determination that the expanded facility, needed to accommodate the additional bedrooms, can be provided within the bulk regulations of the R-10 (AH/MF) District.
- (3) Shared housing structures shall have the exterior appearance of a single-family dwelling.
- (4) Provisions shall be made for off-street parking for all residents or supervisory personnel employed at the facility. The Planning Board shall determine the need for off-street parking established in each application and shall limit the vehicles which can be parked on the property by residents or supervisory personnel.

(5) There shall be no signs on the property other than a house identification number.

(6) All residents in the facility shall be at least 62 years of age. This restriction shall not apply to supervisory personnel.

(7) The Planning Board shall require that the applicant shall produce a site plan for the development of its property for senior citizen shared housing which shall show, at a minimum, the location of the dwelling, all parking areas, landscaping and other matters which the Planning Board shall require.

(8) All residents of the facility shall be low or moderate income qualified as defined in N.J.A.C. 5:93-1.3.

(9) The entity which owns the shared housing facility shall be a non-profit qualified as established in the IRS Code.

SECTION 2. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Warren for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 3. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be deemed to be invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 5. This ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16.

ATTEST:

TOWNSHIP OF WARREN

Cathy Reese, RMC

Victor J. Sordillo, Mayor

Introduced: May 12, 2022

Adopted: July 21, 2022

Effective: July 28, 2022