

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

Ordinance No. 20-15

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AMENDING CHAPTER 540, ARTICLE XXI, OF THE TOWNSHIP CODE, ENTITLED "AFFORDABLE HOUSING" TO CLARIFY AND SUPPLEMENT PROVISIONS OF THE ORDINANCE RELATING TO VERY LOW INCOME HOUSEHOLDS, THE CALCULATION OF INCOME LIMITS, AND MONITORING OF THE TOWNSHIP'S AFFORDABLE HOUSING PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF THE COURT, THE NEW JERSEY FAIR HOUSING ACT AND RELEVANT REGULATIONS GOVERNING THE PROVISION OF AFFORDABLE HOUSING

WHEREAS, the Washington Township Planning Board adopted the Washington Township Housing Plan Element and Fair Share Plan on July 26, 2017; and

WHEREAS, the Washington Township Council endorsed the Washington Township Housing Plan Element and Fair Share Plan on August 7, 2017; and

WHEREAS, the Township's previously adopted Affordable Housing Ordinance implements and incorporates the Township's adopted and endorsed Housing Element and Fair Share Plan which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Township's Affordable Housing Ordinance is intended to provide assurances that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy those units and whereas this ordinance sets forth the administrative mechanisms necessary to implement the Township's Fair Share Plan; and

WHEREAS, the Township's Housing Plan Element and Fair Share Plan and related ordinances implementing that plan, including the Affordable Housing Ordinance, are the subject of a settlement agreement between the Township and the Fair Share Housing Center (FSHC) that has been reviewed and approved by the Court; and

WHEREAS, pursuant to the recommendation of the Court-appointed Planning Master assigned to the Township's case, the Township wishes to amend its Affordable Housing Ordinance to revise certain provisions of the ordinance related to housing that is affordable to very low income households as defined

by relevant regulations and statutes, and to add language related to the calculation of the required income limits for very low-, low-, and moderate-income units and the monitoring of the township's affordable housing plan.

BE IT ORDAINED, by the Township Council of the Township of Washington in the County of Bergen and State of New Jersey as follows:

SECTION 1. Section 113, Paragraph M, of Chapter 540, Article XXI of the Township of Washington Code, "Affordable Housing", is hereby amended to add the following new language as follows (new language is shown as bold and underlined and deleted language is shown in bold and cross-out):

M. Maximum Rents and Sales Prices:

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in **the** UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) **Income limits for all affordable units that are part of the Township's housing plan for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:**
 - (a) **Regional income limits shall be established for the region that the Township is located within (i.e., Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-**

income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

(b) The income limits are the result of applying the percentages set forth in subparagraph (a) above to HUD's determination of median income for the current fiscal year (FY) and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to subparagraph (a) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

(2 3) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

(3 4) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least **10 13** percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.

(4 5) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

(5 6) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one- and one-half person household;
- (c) A two-bedroom unit shall be affordable to a three-person household;
- (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
- (e) A four-bedroom unit shall be affordable to a six-person household.

(6 7) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one- and one-half person household; and
- (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(7 8) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(8 9) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid

utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(9 10) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

(10 11) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

SECTION 2. Section 114, Paragraph C, of Chapter 540, Article XXI of the Township of Washington Code, “Affordable Housing”, is hereby amended as follows (deleted language is shown as bold and crossed-out):

C. In accordance with N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) at least 13 percent of the affordable units provided within the Township shall be reserved for very low income households, i.e., households earning 30 percent or less of the median income, and of that amount at least 50 percent shall be reserved for very low income families (i.e., non-age restricted and not reserved for special needs populations). For developments with ~~eight (8) or more~~ affordable housing units ~~on site~~, at least 13 percent of all low- and moderate-income units shall be affordable to households earning no more than 30 percent of median income. A minimum of 50 percent of these units shall be reserved for very low-income families.

SECTION 3. New Section 118, “Monitoring Requirements”, is hereby added to Chapter 540, Article XXI of the Washington Township Code, “Affordable Housing”, as follows:

§540-117 Monitoring requirements.

- A. Purpose. The purpose of these provisions is to institute various monitoring requirements set forth in an executed Settlement Agreement dated March 22, 2017 and made between the Township of Washington and the Fair Share Housing Center.
- B. On the first anniversary of the approval of the Township’s Spending Plan, which is described in Chapter 513, and every anniversary thereafter

through the expiration of the Township's Settlement Agreement with the Fair Share Housing Center, the Township shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, or other entity designated by the State of New Jersey, with a copy provided to the Fair Share Housing Center and posted on the municipal website. Forms developed for this purpose by the New Jersey Department of Community Affairs or COAH shall be used to report trust fund activity. The reporting shall include an accounting of all trust fund activity, including the source and amount of funds collected, and the amount and purpose for which any funds have been expended.

- C. On March 22, 2018 (i.e., the first anniversary of the execution of the Township's Settlement Agreement with the Fair Share Housing Center) and every March 22 thereafter through the expiration of said Settlement Agreement, the Township shall post reporting of the status of all affordable housing activity on the municipal website with a copy of such posting provided to the Fair Share Housing Center. Forms developed by COAH or any other forms endorsed by the Court shall be used for this purpose.

- D. On July 1, 2020, the Township shall post a midpoint realistic opportunity review on its municipal website, with a copy provided to the Fair Share Housing Center. The midpoint realistic opportunity review, which is required by N.J.S.A. 52:27D-313, shall provide details on the implementation of the Township's adopted Housing Element and Fair Share Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. The posting of the municipal review shall invite any interested party to submit comments to the municipality, with a copy to the Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and with the mechanisms to meet unmet need should be revised or supplemented.

- E. Within 30 days of March 22, 2017, the Township shall post on its municipal website, with a copy provided to the Fair Share Housing Center, a status report as to the municipality's satisfaction of its very low-income requirements. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with very low-income requirements.

SECTION 4. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 5. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 6. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 7. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board.

ATTEST:

APPROVED:

TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk


Stacey Feeney,
Council President


Introduction Date: November 9, 2020


MOTION	SECOND	COUNCIL	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio	Cascio	Cascio				X	
Cumming	Cumming	Cummings	X				
DeSena	DeSena	DeSena		X			
Feeney	X Feeney	Feeney	X				
Morgan	Morgan	X Morgan	X				

ATTEST:

APPROVED:

TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk


Stacey Feeney,
Council President

Adoption Date: December 21, 2020

MOTION	SECOND	COUNCIL	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio	Cascio	Cascio	X				
Cumming	Cumming	Cummings	X				
DeSena	DeSena	X DeSena	X				
Feeney	X Feeney	Feeney	X				
Morgan	Morgan	Morgan	X				