



## TOWNSHIP OF FERGUSON

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### FERGUSON TOWNSHIP BOARD OF SUPERVISORS & PLANNING COMMISSION SPECIAL MEETING AGENDA

Wednesday, September 16, 2020 | 6:00 PM via Zoom

Zoom URL: <https://us02web.zoom.us/j/86244339840>

Meeting ID: 862 4433 9840

#### I. Call To Order

#### I. Citizen Input

#### II. Community Planning

##### A. Draft Workforce Housing Ordinance Discussion

This evening, the Board of Supervisors and Planning Commission are being asked to provide input on the draft Workforce Housing Ordinance amendment. The Workforce Housing Ordinance is codified under Supplemental Regulations in Chapter 27, Zoning and applies to zoning districts where the provisions of workforce housing units are required or incentivized. Currently, the Township requires a contingency of workforce housing to be built in the Traditional Town Development (TTD) Zoning District and it is incentivized in the Terraced Streetscape (TS) District.

Provided with the agenda is the draft amendment to the Workforce Housing Ordinance. This ordinance would be applicable to the following developments within the TTD or TS Zoning Districts:

- Development of or rehabilitation of ten or more residential dwelling units;
- Conversion of an existing residential structure to a multi-family dwelling that results in ten or more residential dwelling units; and
- Conversion of a non-residential property to a residential property that results in ten or more residential dwelling units.

It expands upon the legacy workforce program by allowing for rentals or owner-occupied units; and provides workforce housing units to be built on-site, built off-site, and/or paid through fee-in-lieu.

**Staff Recommendation:** That the Board of Supervisors authorize staff to advertise a Public Hearing for the Workforce Housing Ordinance amendment.

#### III. Adjournment

**FERGUSON TOWNSHIP**  
**§27-716. WORKFORCE HOUSING ORDINANCE**

**1) Purpose.**

The purpose of this Chapter is:

- a) Provide a wide range of quality, workforce housing for households with an income of 80% to 120% of Area Median Income (AMI) in high opportunity neighborhoods, those with superior access to quality schools, services, amenities and transportation;
- b) To support the Centre Region Comprehensive Plan's goal of providing a wide range of sound, affordable and accessible housing consistent with the fair share needs of each municipality in the Centre Region;
- c) Provide criteria for workforce housing including, but not limited to, design, construction, phasing, and location within a development;
- d) To facilitate and encourage development and redevelopment that includes a range of housing opportunities through a variety of residential types, forms of ownership, home sale prices and rental rates;
- e) To work in partnership and support local, state, and federal programs to create additional housing opportunities;
- f) Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
- g) Ensure the opportunity of workforce housing for employees of businesses that are located in or will be located in the Township;
- h) To ensure affordable homeownership, is defined as a mortgage payment and housing expenses (principal, interest, taxes, insurance, and condominium or association fees, if any) costing no more than 30% of a family's gross month income, per the Department of Housing and Urban Development (HUD) definition; and
- i) Effectively enforce and administer the provisions of the Workforce Housing Program.

**2) Authority.** Provisions for the Workforce Housing Chapter are intended to comply with the following articles of the Pennsylvania Municipal Planning Code.

(1) Article VI Zoning.

Section 603. Ordinance Provisions where:

- (a) Zoning Ordinances should reflect the policy goals of the statement of the community development objectives and give consideration to the character of the municipality, the needs of the citizens and the suitabilities and special nature of particular parts of the municipality.
- (c) Zoning Ordinances may contain:
  - (5) Provisions to encourage innovations and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act;
  - (6) Provisions authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance;

(j) Zoning Ordinances adopted by municipalities shall be generally consistent with the municipal or multi-municipal Comprehensive Plan or, where none exists, with the municipal statement of community development objectives and the county Comprehensive Plan.

Section 604. Zoning Purposes. The provisions of zoning ordinances shall be designed:

(1) To promote coordinated and practical community development and proper density of population.

Section 605. Classifications.

(3) For the purpose of encouraging innovation and the promotion of flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act, and for the purpose of authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance.

(2) These regulations are enacted under the authority of the Pennsylvania Human Relations Act (Act of October 27, 1995, P.L. 744, as amended), which guarantees fair housing.

(3) Posting of the Fair Housing Practices Notice is required pursuant to the Pennsylvania Human Relations Act.

3) **Definitions.** As used in this chapter, the following words and terms shall have the meanings specified herein:

**AREA MEDIAN INCOME**—The midpoint of combined salaries, wages, or other sources of income based upon household size in the State College Metropolitan Statistical Area.

**CONVERSION**—A change in a residential rental development or a mixed-use development that includes rental dwelling units to a development that contains only owner-occupied individual dwelling units or a change in a development that contains owner-occupied individual units to a residential rental development or mixed-use development.

**DENSITY BONUS**—An increase in the number of market-rate units on the site in order to provide an incentive for the construction of affordable housing pursuant to this chapter, also known as a bonus unit.

**DEVELOPMENT**—The entire proposal to construct or place one or more dwelling units on a particular to or contiguous lots including, without limitation, a Traditional Town Development (TTD) Master Plan, a Planned Residential Development (PRD), land development or subdivision.

**FEE-IN-LIEU**—A payment of money to Ferguson Township's Affordable Housing Fund in-lieu of providing Workforce Housing Units. This fee is updated annually within the Ferguson Township Schedule of Fees.

**LOT**—A designated parcel, tract or area of land established by a plat or otherwise as permitted by law

and to be used, developed or built upon as a unit.

**MEDIAN GROSS HOUSEHOLD INCOME**—The median income level for the State College, PA Metropolitan Statistical Area (MSA), as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, adjusted for household size.

**MULTI-FAMILY DWELLING**—Three (3) or more dwelling units, with the units stacked one above the other.

**PHASE**—The portions of an approved Development, or, in the case of a Master Plan approval, a Specific Implementation Plan, which are set out for development according to a Township-approved schedule.

**RENOVATION**—The physical improvement that adds to the value of real property, but that excludes painting, ordinary repairs, and normal maintenance.

**WORKFORCE HOUSING**—Housing with a sales price or rental amount within the means of a household that may occupy moderate income housing. In the case of dwelling units for sale, affordable means housing in which mortgage, amortization, taxes insurance, and condominium or association fees, if any, constitute no more than thirty (30) percent of such gross annual household income for a household of the size that may occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and basic utilities constitutes no more than thirty (30) percent of such gross annual household income for a household of the size that may occupy the unit in question. Utilities for rental units include: electric/gas, trash, water and condominium or association fees.

**WORKFORCE HOUSING DEVELOPMENT AGREEMENT**— A written agreement duly executed between the applicant for a development, the Township, and, if applicable, the designated third-party administrator of the Workforce Housing Program. Said agreement shall include, at minimum, all of the provisions established in §27-716, Subsection 7.

**WORKFORCE HOUSING FUND**—The fund created by Ferguson Township to receive funds generated from the administration of fee-in-lieu payments to support workforce housing within Ferguson Township.

**WORKFORCE HOUSING DWELLING UNIT**—A housing unit documented in an applicant's Workforce Housing Development Agreement as required in order to comply with the Workforce Housing Program requirements, subsidized by the federal or state government or subject to covenants and deed restrictions that ensure its continued affordability. When calculating the required percentage of Workforce Units in a development, any fractional result between 0.01 and 0.49 will be rounded down to the number immediately preceding it numerically, and any fractional result between 0.50 and 0.99 will be rounded up to the next consecutive whole number. However, the total Workforce Unit percentage shall not exceed ten (10) percent of the required total Workforce Housing Units in the development.

- 4) **Applicability.** Workforce Housing must be provided in the following Developments and minor alterations within the Terraced Streetscape (TS) Zoning District and the Traditional Town Development (TTD) Zoning District that results in or contains:
  - a) Ten or more residential dwelling units;
  - b) Renovation of a multi-family dwelling that increases the number of residential units from the number of units in the original structure;
  - c) Conversion of an existing residential structure regardless of dwelling type to a multi-family dwelling that results in ten or more residential dwelling units; and
  - d) Conversion of a nonresidential property to a residential property that results in ten or more residential dwelling units.
  
- 5) **General Requirements for Workforce Units.** For all applicable developments listed in Section 4. Applicability, within the Terraced Streetscape (TS) Zoning District and the Traditional Town Development (TTD) Zoning District, projects must comply with the following requirements.
  - a) The permit application must include a Workforce Housing Program option selection.
  - b) Calculation of Workforce Units. To calculate the minimum number of workforce units required in any land development listed in Subsection 4. Applicability, the total number of proposed units shall be multiplied by ten (10) percent.
    - i) When calculating the required percentage of Workforce Units in a development, any fractional result between 0.01 and 0.49 will be rounded down to the number immediately preceding it numerically, and any fractional result between 0.50 and 0.99 will be rounded up to the next consecutive whole number. However, the total Workforce Unit percentage shall not be required to exceed ten percent of the total units in the development.
  
- 6) **Standards.** Workforce Housing must be provided, or a fee-in-lieu of providing Workforce Housing must be paid, according to the following standards:
  - a) Workforce units may be built on-site, paid fee-in-lieu, or built off-site.
    - i) Diversity Standards as outlined in §27-303.C.2.a. (related to TTD developments) may be modified to the extent needed to accommodate all required workforce units and allowable bonus units.
    - ii) In the case of Workforce Housing Dwelling Units provided as a single-family dwelling, duplex, multi-plex or townhouse:
      - (1) The units shall not be segregated or clustered within a development.
      - (2) Except in the case of lots containing more than one unit, no more than two adjacent lots or units shall contain Workforce Housing Dwelling Units.
    - iii) Workforce Housing Dwelling Units may be clustered within a multi-family dwelling (for sale or rent) and no more than 25% of the total units per floor can be designated as Workforce Units, excluding the top floor.
    - iv) Workforce Housing Dwelling Units shall be like market rate units, exclusive of upgrades, with regard to number of bedrooms, amenities, and access to amenities, but may differ from market-rate units regarding interior amenities, provided that:
      - (1) These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the market-rate units; and
      - (2) These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency and standard components of the unit;

- (3) Amenities for Workforce Units are determined to be reasonably equivalent if the appliances have the same Energy Star rating as those in the market-rate units.
- (4) Workforce units may be up to 10 percent smaller than the market-rate units;
- v) Workforce units required under this chapter shall be offered for sale or lease to a qualified household to be used for its own primary residence, except for units purchased by the Township or its designee;
- vi) The sale or lease of Workforce Housing Dwelling Units shall be limited to qualified households earning between 80% and 120% Area Median Income (AMI), adjusted for household size.
- vii) In order to ensure an adequate distribution of workforce units by household size, the bedroom mix of workforce units in any project shall be in the same ratio as the bedroom mix of the market-rate units of the project.
- viii) If the Development contains Phases, Workforce Housing shall be provided in all residential Phases, according to the options set forth in Section 8.
- ix) Owners of Workforce Housing Dwelling Units are required to sign an agreement, suitable for recording, providing that such unit is subject to the terms and conditions of this Ordinance.
- b) Contributions.
  - i) Developments that provide built Workforce Housing Dwelling Units, either built on-site or built off-site will be entitled to the following:
    - (1) One additional equivalent unit (bonus unit) may be added to the Development for each Workforce Housing Unit provided;
    - (2) Multi-family dwellings may exceed the maximum height set forth in the underlying zoning district by one additional story; and
    - (3) Off-street parking may be provided but is not required for any workforce unit built or designated within multi-family dwellings.
- c) Ferguson Township's Option to Purchase.
  - i) The following provisions apply to the initial offering of workforce units for sale by the developer:
    - (1) As a condition of land development approval, the applicant shall notify the Township or its designee of the prospective availability of any workforce units at the time the design and pricing are being established for such units.
    - (2) From the time of building permit issuance, the Township or its designee shall have an exclusive option for 60 days to enter into a purchase and sales agreement at the workforce unit pricing for each workforce unit offered for sale by the applicant. The Township may waive or assign this option.
    - (3) If the Township fails to exercise its option for the workforce units, or if the Township or its designee declares its intent not to exercise its option, the applicant shall offer the units for purchase or rent to households per §27-716.6.a.v. If requested, by the applicant, the Township or its designee shall execute documents that may be recorded with the Centre County Office of Recorder of Deeds to evidence said waiver of option.
    - (4) Closing on workforce units purchased by the Township or its designee occurs within 30 days after issuance of the certificate of occupancy. If the Township or its designee fails to close on these workforce units within such 30 days, the applicant shall offer the unit for purchase or rent to households per §27-716.6.a.v.

- (5) The Township may assign its options under this section, in which event it shall notify the applicant of the agency to which it has assigned the option, which agency shall deal directly with the applicant, and shall have all of the authority of the Township as provided under this section.
  - (6) At any point after the initial option period, (2) above, the applicant may offer the Workforce Housing Dwelling Units to the Township or its designee for purchase at the workforce unit pricing. The Township or its designee then shall have 30 days to enter into a purchase and sales agreement and close within 30 days thereafter.
- d) Limitations.
- i) To the extent permitted by Federal Law, priority will be given to residents of Centre County, or individuals employed by a business located in Centre County.
  - ii) The Workforce Housing Dwelling Unit must be used as a principal place of residence;
- e) Except for household income, asset limitations and the primary residency requirement as set forth herein, occupancy of any workforce unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project;
- f) Execution of a Workforce Housing Development Agreement shall be a condition of approval of a land development plan, or a Specific Implementation Plan (SIP) for a Phase within a Master Plan.

#### 7) **Workforce Housing Development Agreement.**

For Developments required to contain Workforce Housing, no land development plan, subdivision plan, or Specific Implementation Plan for a Phase within a Development, shall be recorded without having first duly executed a Workforce Housing Development Agreement for such Development or Phase. Ferguson Township, Township designee, and the applicant for the development, shall each be parties to the Workforce Housing Development Agreement, which shall, as minimum, contain the following provisions:

- a) Concurrence by the designated administrator of the Workforce Housing Program that the Workforce Housing is being provided within the Development or Phase;
- b) The location(s), zoning designation(s) and ownership of the Development or Phase;
- c) The number and type of Workforce Housing Dwelling Units that will be provided and the calculations used to determine the number of units provided;
- d) If a fee-in-lieu is proposed for the Development or Phase, in whole or part, the fee-in-lieu calculation methodology and amounts that will be applied to Workforce Housing Dwelling Units, within the Development or Phase;
- e) Any contributions provided in §27-716.6.b that are being utilized for the project;
- f) The prevailing interest rate for residential mortgages to be used to calculate Workforce Housing, set for the Development or Phase at a rate of the prevailing 30-year fixed mortgage rate;
- g) A description of the Development or Phase proposed, including the name of the development project and marketing name;
- h) A graphical depiction of the location of Workforce Housing Units within the Development or Phase, and if available, the lot numbers for the Workforce Housing Dwelling Units;
- i) A schedule for the construction of the Workforce Housing Dwelling Units, consistent with that shown on the approved plans for the Development or Phase.
- j) The proposed sale prices and affordability restrictions for each Workforce Housing Dwelling Unit and a copy of the applicable affordability deed restrictions and covenants;
- k) The proposed marketing plan for the Workforce Housing;

- l) Acknowledgement that §27-716.11—Continued Affordability, Compliance and Reporting Requirements will be followed.
  - m) Indication of which, if any, of the Workforce Housing Dwelling Units will be special needs housing for seniors, disabled, or other special needs populations and a description of the unique features or services for that population;
  - n) Indication as to whether the applicant or, for off-site construction, a third party will be constructing the Workforce Housing Dwelling Units. If a third party is to construct the Workforce Housing Dwelling Units, the third party shall join in and be bound by the terms and conditions of the Workforce Housing Development Agreement;
  - o) Within any given Development or Phase, Certificate of Occupancy permits for the last ten (10%) of market-rate units that are offered for sale within that Development or Phase shall be withheld by the Township until all of the Workforce Housing Dwelling Units within that Development or Phase have been issued Certificates of Occupancy or release by payment of a fee-in-lieu.
  - p) Acknowledgement that the designated workforce housing administrator of the Township's Workforce Housing Program shall have full authority to administer the provisions of the Workforce Housing Development Agreement.
  - q) The draft Workforce Housing Development Agreement shall be reviewed by the Township Solicitor with finalization a condition of approval of the plans for the Development or Phase. The fully executed Workforce Housing Development Agreement shall be recorded concurrently with the plans for the Development or Phase.
- 8) **Workforce Housing options.** Workforce Housing may be provided within a Development or Phase using one or more of the following options selected by the applicant:
- a) On-Site construction.
    - i) Contributions that will be provided to the Developer as set forth in §27-716.6.b. for the project.
  - b) Fee-In-Lieu.
    - i) A fee-in-lieu may be paid to the Workforce Housing Fund to offset the construction of one or more Workforce Housing Dwelling Units as follows:
      - (1) Up to 40 percent of the Workforce Housing Dwelling Units attributable to for-sale units within the Development can be offset by a fee-in-lieu; and
      - (2) Up to 100 percent of the Workforce Housing Dwelling Units attributable to rental units within the Development or Phase can be offset by a fee-in-lieu.
    - ii) Board of Supervisors shall establish by resolution the amount of the fee-in-lieu payment per unit following written recommendation by the Township Manager and adopt it as part of the Township's Schedule of Fees.
    - iii) For single-phased development projects, the fee-in-lieu shall be paid prior to issuance of the zoning permit.
    - iv) For development projects with Phases (Specific Implementation Plans), the fee-in-lieu shall be paid on a phase by phase basis based upon the number of workforce housing units being released in that phase with payment made prior to the issuance of the zoning permit for each Phase.
    - v) The Township shall create and administer a Workforce Housing Fund into which all fee-in-lieu payments shall be deposited. All funds received pursuant to this chapter shall be used to further the Township's mission of providing Workforce Housing within Ferguson Township.



- vi) Upon payment of the fee-in-lieu amount for one or more Workforce Housing Dwelling Units, the applicant has no additional Workforce Housing requirements relative to such units. Upon payment, the Township and applicant shall execute a recordable instrument indicating that the Workforce Housing requirements have been met for those units and that the units are no longer Workforce Housing Dwelling Units subject to the terms and conditions of this Ordinance.
- c) Build off-site.
  - i) Workforce Housing Dwelling Units may be constructed off-site, in a development (the "Receiving Development") within Ferguson Township that is separate from the Development or Phase (the "Sending Development") that is required to provide Workforce Housing.
  - ii) The Receiving Development must be an approved development, or the applicant must obtain land development plan approval from the Township for the Receiving Development concurrently with the land development plan approval for the Sending Development.
  - iii) The workforce units built in the Receiving Development must be reasonably equivalent in size and bedroom count to the units on the Sending Development. Workforce Units designated cannot be located in the basement.
  - iv) The Receiving Development shall not contain 100 percent Workforce Housing Dwelling Units.
  - v) The owner of the Sending Development must provide the following information to Township Staff and/or designee:
    - (1) Location of the Receiving Development;
    - (2) Concurrence of the owner of the Receiving Development to construct the Workforce Housing Dwelling Units; and
    - (3) The number of units and Workforce Housing Dwelling Units proposed within the Receiving Development.
  - vi) The Sending Development will receive all bonus units and contributions attributable to the Workforce Housing Dwelling Units.
  - vii) The Receiving Development must be located within the Regional Growth Boundary (RGB) as illustrated in the Centre Region Comprehensive Plan.
  - viii) The owner or developer of the Receiving Development must enter into the Sending Development's Workforce Housing Development Agreement for the Workforce Housing Dwelling Units that are going to be provided on the Receiving Development, as well as contributions attributable to the Workforce Housing Dwelling Units.
  - ix) The Receiving Development is subject to the Workforce Housing Program requirements outlined in §27-716.
  - x) The Receiving Development must develop the Workforce Housing Dwelling Units according to the schedule set forth in the Workforce Housing Development Agreement.
  - xi) A penalty to the Sending Development will be due to Ferguson Township if the Workforce Units in the Receiving Development are not made available as set forth in the Workforce Housing Development Agreement.
- 9) **Policy and Procedures Manuals for Administration of Workforce Housing Dwelling Units For Sale and Rent.** Ferguson Township Planning Department shall provide an administrative manual to offer guidance to applicants regarding compliance with the terms and conditions of this Ordinance. Applicants are encouraged to follow the terms set forth therein.
  - a) Owners or their property managers are encouraged to use the same systems for attracting potential tenants for leasing up Workforce Housing Dwelling Units as are used for market rate

units. Applicants and their agents are expected to work closely and in cooperation with Township Staff and/or designee to make the workforce marketing and sales process as efficient and equitable as possible.

- b) The Workforce Housing program has no rules or guidelines about the method owners, or their property managers use to determine the order in which tenants are offered Workforce Housing Dwelling units.
- c) These documents will include clarifying information and procedures when requested by the Township. These procedures may be updated from time to time to increase the effectiveness of the Workforce Housing Program.

**10) Inability to Rent or Sell Workforce Housing Units to Qualified Households.**

- a) By Developer. If the developer meets or exceeds the marketing guidelines set forth in its Workforce Housing Development Agreement for a period of one year from final certificates of occupancy issuance and is still unable to sell such a unit to a qualified household, the developer shall notify the Township. The Township or its designee shall have 30 days from the date notice was given to enter into a contract to purchase the unit at its marketed price, with closing to take place within 30 days thereafter. After which, the Township, or its designee shall market and sell the unit as a Workforce Housing Dwelling Unit. If the Township or its designee does not purchase the Workforce Dwelling Unit, it shall be conclusively demonstrated that there is no market for such unit being a Workforce Dwelling Unit. The developer shall pay the Township 60% of the original per unit fee-in-lieu and may remove the unit as a Workforce Housing Dwelling Unit and the unit shall become a market-rate unit, no longer subject to the terms and conditions of this Ordinance.
- b) By Unit Owner. The owner of a Workforce Housing Dwelling Unit may remove the unit by subsequent sale to a non-qualifying owner by paying a fee-in-lieu to the Workforce Housing Fund as follows: If the gross purchase price on the subsequent sale is greater than the original sales price, increased by 6% per year since the original sale, the difference between the original sale price (as adjusted) and the gross purchase price is the fee-in-lieu paid.

**11) Continued Affordability, Compliance and Reporting Requirements.**

- a) For Sale Workforce Units.
  - i) The continuity of a Workforce Housing Dwelling Unit that is sold shall be ensured for a period of 99 years commencing on the date the certificate of occupancy is issued for the unit. To provide for this, a restriction shall be place on the deed of the Workforce Housing Dwelling Unit, which shall read as follows: "This property is to remain affordable for a period of 99 years from its initial date of sale for persons earning between 80 percent and 120 percent of the Area Median Income (AMI) for State College, PA Metropolitan Statistical Area (MSA) as established by the latest income guidelines defined in the annual schedule published by the Secretary of the United States Department of Housing and Urban Development."
  - ii) Prospective buyers shall enter into a legally binding agreement with the designated administrator of the Workforce Housing Program that will stipulate the process for certifying subsequent buyers of Workforce Housing Dwelling Units for the applicable 99 year period, and the amount of equity able to be recouped by the homeowner upon sale of the Workforce Housing Dwelling Unit. The designated administrator of the Workforce Housing Program shall have the authority to require additional stipulations in the agreement including, but not limited to, the requirement of prospective buyers to participate in financial counseling in accordance with the procedures and requirements of the designated administrator.

- iii) The Township shall require resale conditions in order to maintain the availability of workforce units in perpetuity be specified in the Affordability Instrument, including resale calculations.
    - (1) At the time of purchase, the owners of any workforce unit shall execute a Resale Restriction Agreement and Option to Purchase provided by the Township, stating the restrictions imposed pursuant to this Resale Restrictions section, including but not limited to all applicable resale controls and occupancy restrictions. This Resale Restriction Agreement and Option to Purchase shall be recorded in the Centre County Office of Recorder of Deeds and shall afford the Township or its assignee the right to enforce the declaration of restrictions.
    - (2) The Township or its designee shall be responsible for monitoring and facilitating the resale of workforce units.
  - iv) Provisions for continued affordability of workforce units shall provide that the Township have an exclusive option to purchase any workforce unit when it is offered for resale.
    - (1) The owner shall notify the Township or its designee of the prospective availability of any workforce unit for sale.
    - (2) Upon being notified by the owner of the workforce unit, the Township or its designee shall have an exclusive option for 60 days to enter into a purchase and sales agreement at the workforce unit pricing the unit being offered for sale by the owner. The Township may waive or assign this option.
  - v) If the Township fails to exercise its option for the workforce unit, or if the Township or its designee declares its intent not to exercise its option, the owner shall notify the Director of Planning and Zoning that the deed restriction will be removed from the property and consequently, removed from the Workforce Housing Program. Upon notification, the owner may sell the Workforce Unit to a non-qualifying owner by paying a fee-in-lieu to the Workforce Housing Fund as outlined in §27-716.10.b. If requested, by the owner, the Township or its designee shall execute documents that may be recorded with the Centre County Office of Recorder of Deeds to evidence said waiver of option.
  - vi) Closing on workforce units purchased by the Township or its designee occurs within 30 days of notifying the owner of the Township or its designee's intent to exercise its option. If the Township or its designee fails to close on this workforce unit within such 30 days, the owner shall notify the Director of Planning and Zoning that the deed restriction will be removed from the property and consequently, removed from the Workforce Housing Program. Upon notification, the owner may sell the Workforce Unit to a non-qualifying owner by paying a fee-in-lieu to the Workforce Housing Fund as outlined in §27-716.10.b. If requested, by the owner, the Township or its designee shall execute documents that may be recorded with the Centre County Office of Recorder of Deeds to evidence said waiver of option.
- b) Leasing/Rental Developments.
- i) Static Data, Unit Composition and Rent Schedule.
    - (1) This form is required both prior to lease up and annually that includes: total units, bedroom size, tenant incomes and rents, unit locations within the development, and square footage.
  - ii) Tenant incomes and rent determination.
    - (1) Measurement of household income is determined using the Housing and Urban Development's (HUD) annually published area median income and rent chart based upon household size in the State College Metropolitan Statistical Area (MSA).

- iii) Incomes rising in place.
  - (1) Ferguson Township's Incomes Rising-in-Place policy is meant to allow households that have initially qualified for a Workforce Housing unit to remain in that unit and not be subject to market rate rents until their incomes reach or exceed the income limits contained in the policy. After qualifying at lease-up, a tenant's income may increase above the affordability restrictions of a development and still have the unit fulfill the development's Workforce Housing requirements, based on the following schedule:
    - (a) Tenants in units restricted at 80% of AMI levels, may have income increase up to 120% of AMI.
  - (2) The owner or property manager may revise the expiring leases with tenants who, upon recertification, no longer meet the income requirements and the Income Rising-in-Place policy, to allow tenants to continue living in a unit at market rate rent. The market rate rent level must be comparable to reasonably equivalent units within the development, or a comparable development. Tenants must not be required to submit additional deposits or fees.
    - (a) Un-constructed Units. If units within the Phase or Development (for single phase developments) are not yet constructed, another unit must be designated from such un-constructed units in the Phase or Development as a Workforce Housing Dwelling Unit in order to maintain the affordability requirements as described in the Vacancy section below.
    - (b) Constructed Units. For developments that are completely constructed, another unit must be designated in the development as a Workforce Housing unit in order to maintain the affordability requirements as described in the Vacancy section below.
- iv) Vacancies.
  - (1) The following shall apply when, through the annual tenant income certification reporting cycle, a tenant's income is above what's allowable for the Workforce Housing Dwelling Unit:
    - (a) Owner or their property manager will check the reported income against that allowed by the incomes rising in place policy.
    - (b) When a tenant's income is at or below the incomes rising in place policy, there is no action required by the owner or their property manager. The owner or their property manager at their discretion may raise tenant rent up to the maximum allowed for the tenant's household according to the current Housing and Urban Development's (HUD) annually published AMI and rent chart based upon household size in the State College (MSA), taking into account any applicable laws, rules, or policies regarding rent increases.
    - (c) In the case that a tenant no longer qualifies for a Workforce Housing unit, the owner or their property manager must give at least 240-day written notice to the tenant and Ferguson Township and/or designee prior to an increase in the unit's rent. This information must be included in the lease or lease addendum for each Workforce Housing unit and an executed copy provided to Ferguson Township and/or designee as the development is leased up and at unit takeover.
- c) Annual Reporting and Review.
  - i) Developments with rental units will be subject to Ferguson Township and/or designee annual reporting requirements as set forth in the Workforce Housing Development Agreement.

Owners or their property managers on an annual basis will submit information on Workforce Housing Dwelling Units and the tenants living in such units.

- ii) The Township and/or designee reserves the right to physically inspect developments containing Workforce Housing Dwelling Units at least once every three years. Inspections will also include an audit of Workforce Housing related files such as the tenant income compliance. Developments that are determined to be out of compliance may be inspected more frequently or until they are brought back into compliance.
- 12) **Administration.** The Ferguson Township Planning and Zoning Department and/or designee shall administer and monitor activity under this chapter and shall report periodically to the Board of Supervisors, setting forth its findings, conclusions and recommendations for changes that will render the program more effective.
- 13) **Implementation.** The Ferguson Township Planning and Zoning Department and/or designee may establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.
- 14) **Fees.** Fees to administer the program such as a monitoring fee, refinance fee, or resale fee, may be established by resolution by the Board of Supervisors, following written recommendation by the Township Manager and adopted as part of the Township's schedule of fees.