

**FERGUSON TOWNSHIP
AFFORDABLE HOUSING ORDINANCE**

- 1) **Purpose.** The purpose of this Chapter is:
- a) Provide a wide range of quality, affordable housing for households with an income of 80% to 120% ~~or less~~ 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 to provide 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 affordable 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 mitigate the impacts of large-scale real estate development on the available supply of ~~low and~~ moderate income housing and increase the availability of such housing;
 - f) To work in partnership and support programs like Centre County Affordable Housing Coalition, Centre County Housing and Land Trust, and Housing Transitions, Inc. to create additional housing opportunities;
 - g) Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
 - h) Ensure the opportunity of affordable housing for employees of businesses that are located in or will be located in the Township;
 - i) To ensure that affordable homeownership which is, a mortgage payment and housing expenses (principal, interest, taxes ~~and~~, insurance, and condominium or association fees, if any) is no greater than 30% of a family's gross month income, per the HUD definition; and
 - j) Effectively enforce and administer the provisions of the affordable housing program.

2) **Authority.** Provisions for the Affordable 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~~suitability 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:

AFFORDABLE HOUSING—Housing with a sales price or rental amount within the means of a household that may occupy moderate ~~and low~~-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 utilities constitute~~ 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.

AFFORDABLE HOUSING DEVELOPMENT AGREEMENT— A written agreement duly executed between the applicant for a development, the Township, and the designated third-party administrator of the affordable housing program. Said agreement shall include, at minimum, all of the provisions established in ~~§27-215,~~ Subsection ~~6-7.~~

~~**AFFORDABLE HOUSING DWELLING UNIT**—Means any affordable housing subject to covenants or restrictions requiring such dwelling units to be sold or rented at prices preserving them as affordable housing for a period of at least fifty (50) years.~~

AFFORDABLE HOUSING DEVELOPMENT—Any housing subsidized by the federal or state government, or any housing development in which at least ten (10) percent of the housing units are affordable dwelling units.

AFFORDABLE HOUSING DEVELOPMENT PLAN—A plan prepared by an applicant for an Affordable Housing Development under this chapter that outlines and specifies the development's compliance with the applicable requirements of this chapter.

AFFORDABLE HOUSING TRUST FUND—The fund created by Ferguson Township ~~pursuant to Section §27-7167.b. of this chapter to receive funds generated from the administration of fee-in-lieu payments to support Affordable Housing within Ferguson Township.~~

AFFORDABLE HOUSING UNIT—Either a housing unit subsidized by the federal or state government or subject to covenants and deed restrictions that ensure its continued affordability or an affordable dwelling unit documented in a development's Affordable Housing Agreement. When calculating the required percentage of Affordable Units in a development, any fractional result between ~~0.1~~ 0.01 and ~~0.4~~ 0.49 will be rounded down to the number immediately preceding it numerically, and any fractional result between ~~0.5~~ 0.50 and ~~0.9~~ 0.99 will be rounded up to the next consecutive whole number. However, the total Affordable

Unit percentage cannot exceed ten (~~40~~10.0) percent of the total units in the development.

~~**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.~~

DEVELOPMENT—The entire proposal to construct or place one or more dwelling units on a particular lot or contiguous lots including, without limitation, a TTD Master Plan, a planned unit development, ~~site plan~~, land development or subdivision.

~~**FEE-IN-LIEU FACTOR**—The factor used to calculate the fee in lieu which may not exceed the maximum justifiable cap determined annually by Ferguson Township based on the difference in the capitalized market value between market rate buildings and buildings with ten (10) percent of the units affordable to households earning eighty (80) percent or less of the area AMI as determined annually by U.S. Department of Housing and Urban Development.~~

LOT—Either the basic development unit for determination of area, width, depth, and other dimensional variations; or a parcel of land whose boundaries have been established by a legal instrument, such as a recorded deed or recorded map, and is recognized as a separate legal entity for purposes of transfer of title.

~~**LOW-INCOME HOUSING**—Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed fifty (5) percent of the median gross household income for households of the same size within the State College, PA Metropolitan Statistical Area (MSA) in which the housing is located.~~

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.

~~**MODERATE-INCOME HOUSING**—Housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than fifty (50) percent but does not exceed eighty (80) percent of the median gross household income for households of the same size within the State College, PA Metropolitan Statistical Area (MSA) in which the housing is located.~~

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

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.

- 4) **Applicability.** ~~All of~~ Affordable Housing must be provided in the following ~~land developments~~ 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 Affordable Units.** For all applicable land 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.~~ ~~Deleted.~~
- ~~a) The permit application must include an Affordable Housing Program option selection. Planning and Zoning Staff will be available at the Ferguson Township Municipal Building to assist applicants throughout the permitting intake and application process to explain and clarify the Affordable Housing Program requirements.~~
 - ~~b) Calculation of Affordable Units. To calculate the minimum number of affordable units required in any land development listed in Section 4. Applicability, the total number of proposed units shall be multiplied by 10 percent.~~
 - ~~i) When calculating the required percentage of Affordable Units in a development, any fractional result between 0.1 and 0.4 will be rounded down to the number immediately preceding it numerically, and any fractional result between 0.5 and 0.9 will be rounded up to the next consecutive whole number. However, the total Affordable Unit percentage cannot exceed ten percent of the total units in the development.~~

6) **Standards.** Affordable ~~dwelling units~~Housing must be provided ~~as follows~~, or a fee-in-lieu of providing ~~affordable units~~Affordable Housing must be paid ~~-, according to the following standards: Adjustments are prohibited.~~

i) Affordable units may be provided on-site, fee-in-lieu, built off-site, designated off-site, or by land and/or building donation to the Township.

(1) Off-street parking may be provided but is not required for any affordable unit built or designated;

~~(2) Affordable units may be up to 10 percent smaller than the market rate units;~~

~~(3) Developments that provide built affordable units, either on site or off site, will have the option to add one additional equivalent unit (bonus unit) for each affordable unit provided as part of the land development plan, not to exceed (XX) bonus units;~~

(2) ~~(4)~~-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 affordable units and allowable bonus units;

(3) In the case of Affordable Housing Units provided as a single family dwelling, duplex, multi-plex or townhouse:

(a) ~~(5) The overall height for all developments of multifamily units cannot exceed one additional story over and above the underlying zoning;~~~~(6) Affordable housing units shall be dispersed throughout the development and not be segregated or clustered within a development;~~

(b) No more than two adjacent lots or units shall contain Affordable Housing Units.

(4) ~~(7)~~ Affordable ~~housing units~~Housing Units may be clustered within a multi-family dwelling (for sale or for rent).

(5) Affordable Housing Units shall be like market rate units with regard to number of bedrooms, amenities, and access to amenities, but may ~~not be permitted to~~ differ from market-rate units ~~in a development with regard to~~regarding interior amenities, provided that:

- (a) These differences, excluding differences related to size differentials, are not apparent in the general ~~interior and~~ exterior appearance of the ~~development's~~ market-rate units; and
- (b) These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency and standard components of the ~~development's units~~ unit;

~~(8) — No more than two adjacent lots shall contain affordable housing units;~~

~~(9) No more than four lots along any block width or block length may contain such units; Affordable units required under this chapter~~ Affordable Housing Units shall be offered for sale or lease to a ~~(10) —~~ qualified household to be used for its own primary residence, except for units purchased by the Township or its designee;

~~(a) The applicant will provide to the Township data justifying the needs for fee simple units or units for lease;~~

~~(11) — If the development plan, for which affordable units are required, contains a phasing plan, the phasing plan shall provide for the development of affordable units concurrently with the market rate units. No phasing plan shall provide that the affordable units built are the last units constructed.~~

~~(12) — In order to ensure an adequate distribution of affordable units by household size, the bedroom mix of affordable units in any project shall be in the same ratio as the bedroom mix of the market rate units of the project.~~

~~(13) — The sale or lease of affordable units shall be limited to qualified households earning up to 120% Area Median Income (AMI), adjusted for household size. See the following table for the percentage of affordable units to be provided for specific qualified households.~~

Population to be Served	Percentage of Affordable Units for the Development	
	For Sale Units	Rental Units
60%–90% Area Median Income (AMI)	50%	50%
91%–120% AMI	50%	50%
TOTAL	100%	100%

~~In instances where there are less than two affordable units for rent or sale, a minimum of one unit must be provided at a commensurate price for the 60%–90% Area Median Income (AMI).~~

- (7) If the Development contains Phases, Affordable Housing shall be provided in all residential Phases, according to the options set forth in Section 8. The Development shall not defer construction of all or substantially all of the Affordable Housing to the final phase.
- (8) ~~(14)~~ Owners of ~~property subject to the~~ Affordable Housing ~~Program~~ Units are required to sign a ~~Regulatory Agreement to be recorded with the property where the affordable units are located;~~ recordable agreement providing that such unit is subject to the terms and conditions of this Ordinance.

b) Incentives.

- i) Developments that provide built Affordable Housing Units, either on-site or off-site, will be entitled to the following:
 - (1) One additional equivalent unit (bonus unit) may be added to the Development for each Affordable Housing Unit provided;
 - (2) Multifamily buildings may exceed the maximum height set forth in the underlying zoning district by one additional story.

c) Continued Affordability.

- i) The continuity of ~~affordable units in the workforce housing program~~ an Affordable Housing Unit that is sold shall be ensured for a period of 50 years commencing on the date ~~of the approved~~ certificate of occupancy is issued for the unit. To provide for ~~the continuity of affordable housing units~~ this, a restriction shall be placed on the deed of the ~~property~~ Affordable Housing Unit, which shall read as follows: "This property is to remain affordable for a period of 50 years from its initial date of sale for persons earning between ~~60 percent and 90 percent or 91~~ 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 Affordable Housing ~~Program~~ program that will stipulate the process for certifying subsequent buyers of ~~affordable housing~~ Affordable Housing units for the applicable 50 year period, and the amount of equity able to be recouped by the homeowner upon sale of the ~~affordable housing~~ unit. The designated administrator of the ~~affordable housing~~ Affordable 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.

- d) Limitations.
 - i) ~~Priority~~To the extent permitted by Federal Law, priority will be given to residents of Centre County for a minimum of one year, or individuals employed by a business located in Centre County. Must be a United State citizen or have permanent resident alien status;
 - ii) The affordable 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 affordable unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project;
- f) No zoning permit shall be issued to a development in which affordable housing units are required unless the applicant without having first duly executed an Affordable Housing Development Agreement; and
- ~~g) Final number of Units and Pricing shall be determined as outlined in this chapter and the policy and procedures manual;~~

7) **Affordable Housing Development Agreement.** For ~~developments~~Developments required ~~by this Section to include affordable housing units, no zoning permit shall be issued for said development~~to contain Affordable 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 an Affordable Housing Development Agreement for such Development or Phase. Ferguson Township, Township designee, and the applicant for the development, shall each be parties to the ~~agreement. The agreement~~Affordable Housing Development Agreement, which shall, at minimum, contain the following provisions:

- a) ~~A statement from~~Concurrence by the designated administrator of the Affordable Housing Program that the ~~affordable housing units are consistent with the definition of affordable housing units in §27-215.3, above~~Affordable Housing is being provided by Affordable Housing Units within the Development or Phase;
- b) The location(s), zoning designation(s) and ownership of the ~~project(s)~~Development or Phase;
- c) The number and type of ~~affordable housing units~~Affordable Housing Units that will be provided and the calculations used to determine the number of ~~units, including any incentives that were employed to reduce the requirement of affordable housing units or additional affordable housing units provided to reduce or relieve the requirement of another provision of the Zoning Ordinance, where applicable~~unit so provided;
- d) If a fee-in-lieu is proposed for the Development or Phase, in whole or part, the fee-in-lieu amounts that will be applied to for-sale, and if applicable, rental units, within the Development or Phase.

- e) The prevailing interest rate for residential mortgages to be used to calculate Affordable Housing, set for the Development at a rate not to exceed that as of the date of the agreement.
- f) ~~d) Description(s)~~ A description of the ~~development(s)~~ Development or Phase proposed, including the name of the development project and marketing name, ~~if different from the name submitted to the Township, and site plan(s) or preliminary subdivision(s) or land development plan(s) of the project(s);~~
- g) ~~e) The exact location of affordable housing units within the proposed development(s) including lot number~~ A graphical depiction of the location of Affordable Housing Units within the Development or Phase, and if available, the lot numbers for the Affordable Housing Units;
- h) ~~f) A schedule, binding on the developer or property owner, for the construction of the affordable housing units. For phased developments, a phasing plan for the construction of the affordable housing units and market rate units that are consistent with the preliminary subdivision and land development plan of the proposed development;~~ Affordable Housing Units, consistent with that shown on the approved plans for the Development or Phase. Deviations from the schedule will be permitted to account for unexpected delays in construction or sales of the Affordable Housing Units.
- i) ~~g) The proposed sale prices and affordability restrictions for each affordable housing unit~~ Affordable Housing Unit and a copy of the applicable affordability deed restrictions and covenants;
- j) The proposed marketing plan for the Affordable Housing.
- k) ~~h) Indication of which, if any, of the affordable housing units~~ Affordable Housing 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;
- l) ~~i) Indication as to whether the developer~~ Developer or a third party will be constructing the ~~affordable housing units~~ Affordable Housing Units. If a third party is to construct the ~~housing units, a separate development agreement or other binding legal document between the developer and the third party must be submitted with the affordable housing development agreement;~~ Affordable Housing Units, the third party shall join in and be bound by the terms and conditions of the Affordable Housing Development Agreement.
- m) ~~j) Acknowledgement that the certificates of occupancy~~ Within any given Phase, Certificate of Occupancy permits for the last ~~10~~ ten percent (10%) of ~~the market-rate units that are offered for sale within that phase shall be withheld by the Township until the certificates of occupancy for all of the affordable housing units have been issued;~~ all of the Affordable Housing Units within that Phase have been constructed, or released by payment of a fee-in-lieu.

- n) ~~k)~~ Acknowledgement that the designated affordable housing administrator of the Township's affordable housing program shall have full authority to administer the provisions of the ~~affordable housing development agreement~~ Affordable Housing Development Agreement.
- o) ~~l)~~ The draft Affordable Housing Development Agreement shall be reviewed by the Township Solicitor ~~and included as~~ with finalization a condition of approval of the ~~subdivision or land development plan~~ Plans for the Development or Phase. The fully executed Affordable Housing Development Agreement shall be recorded concurrently with the plans for the Development or Phase.
- 8) **Affordable Housing options.** Affordable Housing ~~Program requirements will depend on the applicant's selection from one~~ may be provided within a Development or Phase using one or more of the following options: selected by the developer:
- a) On-Site construction of Affordable Housing Units.
- i) ~~General Requirements for On-Site construction of Affordable Units. When the proposed development will include 10 percent of the units built on-site, Township Staff and/or designee will calculate the minimum number of required Affordable Units; and~~
- ii) ~~Determine~~ Township Staff will determine any land use incentives provided in §27-716.5.d for the project. [What are these? Reference is unclear.]
- b) Fee-In-Lieu ~~Affordable Housing~~.
- i) ~~An applicant may pay a fee in-lieu of constructing a portion of the required minimum number of affordable units in any development listed in §27-716.4 above; A fee-in-lieu may be paid to the Affordable Housing Trust Fund to offset the construction of one or more Affordable Housing Units as follows:~~
- (1) Up to 100 percent of the Affordable Housing Units attributable to rental units within the Development or Phase can be offset by a fee-in-lieu; and
- (2) Up to 40 percent of the Affordable Housing requirement can be paid in Units attributable to for-sale units within the Development or Phase can be offset by a fee-in-lieu;
- ii) For Developments approved prior to or within two (2) years after, the effective date of this Ordinance, including all Phases within such Developments, the fee-in-lieu shall be \$75,000 for a for-sale unit and \$37,500 for a rental unit. Thereafter, the 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 ~~Fees~~. The per-unit amount shall be based on an estimate of the ~~actual~~ cost of ~~providing~~ constructing an affordable unit ~~using actual construction cost data;~~

~~which shall include a consideration of land purchase costs. The per-unit amount shall be provided in accordance with the policy and procedure manual for administration of the program, including land acquisition costs.~~

iii) ~~All fee-in-lieu payments received pursuant to this chapter shall be paid directly to the Township and~~ The Township shall create and administer an Affordable Housing Trust 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 ~~affordable housing opportunities to income-qualified households and/or first-time homebuyers. The Township shall create and administer an Affordable Housing Fund for such payments.iv)~~ To determine the total fee-in-lieu payment, the per-unit amount established by the Township shall be multiplied by at least 10 percent of the number of proposed units in the development pursuant to paragraph §27-716.4 above. For the purposes of such calculation, if 10 percent of the number of proposed units results in a fraction, the fraction shall not be round up or down. If the fee-in-lieu payment is made to substitute providing one or more of the required units, the calculation shall be prorated as appropriate. Affordable Housing within Ferguson Township. Monies within the fund shall be made available to individual owners or renters of Affordable Housing Units within the Development or Phase attributable to paid fee-in-lieu for security deposits, down payments and buyers' closing costs of units within such Phase or Development.

iv) ~~v)~~ Upon payment of the fee-in-lieu amount for one or more Affordable Housing Unit, the applicant has no additional Affordable Housing ~~Program~~ requirements relative to ~~the proposed development~~ such units. Upon payment, the Township and applicant shall execute a recordable instrument indicating that such units are no longer Affordable Housing Units subject to the terms and conditions of this Ordinance.

c) Build off-site Affordable Units.

i) Affordable ~~units otherwise required to be constructed as specified under paragraph §27-716.4, above.~~ Housing Units may be constructed off-site, in a ~~separate~~ development (the "Receiving Development") within Ferguson Township that is separate from the ~~new development~~ (Development or Phase (the "Sending Development")) that is ~~subject~~ required to ~~the~~ provide Affordable Housing ~~Program~~ requirements.

~~ii) To determine the total number of off-site units, multiply the number of proposed units in the Sending Development by 10 percent.~~

ii) ~~iii)~~ The Receiving Development must be an approved Development, or the applicant must obtain an off-site land development plan approval from the Township for the Receiving Development concurrently with the land development plan approval ~~from the Township at the same time the applicant~~

~~obtains plan approval for the proposed market rate units within~~ for the Sending Development.

- ~~iii)~~ iv) The ~~Sending~~ Receiving Development ~~may retain~~ will receive all bonus units ~~and/or incentives attributable to the Affordable Housing.~~
- iv) ~~v)~~ The Receiving owner of the Sending Development must ~~be identified and approved by~~ provide the following information to the Township Staff and/or designee ~~prior to zoning permit issuance for the Sending Development, specifying the following information:~~
 - (1) Location of the Receiving Development;
 - (2) ~~Proof of ownership;~~ Concurrence of the owner of the Receiving Development to construct the Affordable Housing Units;
 - (3) ~~Number~~ The number of ~~affordable~~ units and ~~total units~~ Affordable Housing Units proposed; ~~and~~ (4) Development schedule within the Receiving Development; and
 - (4) A development schedule for the construction of the Affordable Housing Units within the Receiving Development. The Receiving Development must commence construction of the Affordable Housing Units as set forth within its Affordable Housing Development Agreement.
- v) ~~vi)~~ The Receiving Development must be located within the Regional Growth Boundary (RGB) as adopted by the Centre Regional Council of Governments.
- vi) ~~vii)~~ The ~~Receiving Development cannot be supported by any additional subsidy from Ferguson Township.~~ owner or developer of the Receiving Development must enter into or amend an existing Affordable Housing Development Agreement for the Affordable Housing Units that are from the Sending Development detailing the requirements set forth in this Section, including any fee-in-lieu that might be paid.
- ~~viii)~~ The Receiving Development remains subject to any additional Affordable Housing Program requirements.
- ~~ix)~~ The Receiving Development must receive a Certificate of Occupancy within three years of the Sending Development's first issued zoning permit or be subject to financial penalties.
- ~~x)~~ A penalty to the Sending Development will be due to Ferguson Township if the Affordable Units in the Receiving Development are not made available as set forth in the Affordable Housing Development Agreement.

d) Designate Existing Units ~~(DEU)~~.

- i) Affordable ~~units otherwise required to be constructed as specified under paragraph §27-716.4, above,~~ Housing Units may be designated to be included in an existing development (the “Receiving Site”) within Ferguson Township that is separate from the ~~new development~~ (Development or Phase (the “Sending Development”)) that is ~~subject to~~ required to provide Affordable Housing.
- ii) The owner of the Receiving Site must designate the Affordable Housing Program ~~requirements.~~
- ~~ii) — To determine the total number of off-site units, multiply the number of proposed units in the Sending Development by 10 percent.~~ iii) options that will be utilized for the affordable units (ie. construction of Affordable Housing Units, payment of Fee-in Lieu, or both). For Affordable Housing Units that are to be constructed, Township Staff and/or designee will determine whether the proposed existing building is compatible with the Affordable Housing Program requirements. If the proposed Receiving Site is determined to be incompatible, the applicant must choose one of the remaining Affordable Housing Program Options. Receiving Site compatible.
- iii) ~~iv) The Sending Development may retain~~ Receiving Site will receive all bonus units and/or incentives attributable to the Affordable Housing Units so designated.
- iv) ~~v) The Receiving Site must be identified and approved by Township Staff and/or designee prior to zoning permit issuance for~~ owner of the Sending Development; ~~specifying~~ must provide the following information to the Township Staff and/or designee:
 - ~~(1) — Location;~~
 - (1) Location of the Receiving Site;
 - (2) Concurrence of the owner of the Receiving Site to receive the obligation to provide Affordable Housing under this Ordinance;
 - (3) The number of Affordable Housing Units being designated to the Receiving Site;
 - (4) Fee-in-lieu amounts applicable for the Affordable Housing Units being designated to the Receiving Site; and
 - ~~(5) (2) — Proof of Ownership? Or Agreement from Owner?~~
 - ~~(3) — Number of affordable units and total units proposed; and~~ (4) — Leasing schedule. A development schedule for the construction of any Affordable Housing Units within the Receiving Site. The Receiving

Site must commence construction of the Affordable Housing Units as set forth within its Affordable Housing Development Agreement.

- ~~v) vi) The Receiving Site must be located within the Regional Growth Boundary (RGB) as adopted by the Centre Regional Council of Governments.~~
- ~~vi) vii) The affordable units designated on owner or developer of the Receiving Site must be reasonably equivalent in size, quality, and bedroom count to the units on enter into or amend an existing Affordable Housing Development Agreement to account for the Affordable Housing Units that are from the Sending Development detailing the requirements set forth in this Section, including any fee-in-lieu that might be paid.~~
- ~~viii) The Receiving Site cannot be supported by any additional subsidy from Ferguson Township.~~
- ~~ix) The Receiving Site remains subject to any additional Affordable Housing Program requirements.~~
- ~~x) The Receiving Site must receive a Certificate of Occupancy within three years of the Sending Development's first issued zoning permit or be subject to financial penalties.~~
- ~~xi) A penalty to the Sending Development will be due to Ferguson Township if the Affordable Units in the Receiving Site are not made available as set forth in the Affordable Housing Development Agreement.~~

e) Land and/or Building Donation

- ~~i) Land Donation—Affordable ~~units otherwise~~Housing Units required to be constructed ~~as specified under paragraph §27-716.4, above, land~~ may be offset by land, building or a combination of both, donated to the Township or its designee with the Township's approval: as follows:~~
- ~~ii) The land value must be equal to or greater than the value of the fee-in-lieu payment, calculated in paragraph §27-716.7.b. The value of the land will be determined by an appraisal completed by a certified appraiser and shall be submitted to the Township. If the submitted appraisal is in question, the value of the land will be determined as outlined in the policy and procedures manual.~~
- ~~(1) The land to be donated must be located within the Regional Growth Boundary (RGB) as adopted by the Centre Regional Council of Governments.~~
- ~~(2) The land to be donated must meet all applicable zoning and land development standards to construct the required units.~~

~~(3) The land donation must occur prior to the completion of the market rate units.~~

~~iii) Land and Building Donation. Affordable units otherwise required to be constructed as specified under paragraph §27-716.4, above, land and building(s) may be donated to the Township or its designee with the Township's approval.~~

~~iv) The building and land value must be equal to or greater than the value of the fee-in-lieu payment, calculated in paragraph §27-716.7.b. The value of the land will be determined by an appraisal completed by a certified appraiser and shall be submitted to the Township. If the submitted appraisal is in question, the value of the building and land will be determined as outlined in the policy and procedures manual.~~

(1) ~~The land to be donated must be located within the Regional Growth Boundary (RGB) as adopted by the Centre Regional Council of Governments.~~ value of the donated land and/or buildings must be equal to or greater than the value of the fee-in-lieu payment, calculated in Section 8(b)(ii). The value of the land and/or buildings will be determined by an appraisal completed by a certified appraiser mutually agreed-upon by the land owner and the Township, and shall be submitted to the Township.

(2) ~~The land and building to be donated must meet all applicable zoning and land development standards to construct the required units.~~ or buildings to be donated must be located within the Regional Growth Boundary (RGB) as adopted by the Centre Regional Council of Governments, unless otherwise agreed-upon by the Township.

(3) ~~The land donation must occur prior to the completion of the market rate units.~~ and/or buildings to be donated must be capable of meeting all applicable zoning and land development standards to provide for the construction of the required number of Affordable Housing Units.

~~9) Policy and Procedures Manuals for Administration and Marketing of Affordable Units for Sale and Rent. Ferguson Township Planning Department shall provide an administrative manual for the execution of the Affordable Housing Chapter. This manual shall be followed by the applicant to provide the affordable units.~~

~~a) The Marketing for Sales and Rents Manual shall also be provided to establish requirements for this aspect of the program. Developers and their agents are expected to work closely and in cooperation with Township Staff or designee to make the affordable marketing and sales process as efficient and equitable as possible.~~

~~(4) b) 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 affordable housing~~

~~program.~~The land and/or buildings donation must occur prior to the completion of the market-rate units.

9) ~~10)~~Inability to ~~Rent or~~ Sell Affordable Housing Units to Qualified Households.

a) ~~By Developer.~~ If the developer meets or exceeds the marketing requirements, ~~referenced in section 8) above,~~ set forth in its Affordable Housing Development Agreement for a period of one year from ~~final certificates of occupancy issuance~~ commencement of construction of an Affordable Housing Unit, and is still unable to ~~lease or sell affordable units~~ such unit to a qualified ~~households~~ household, the developer shall ~~offer the affordable unit to~~ notify the Township. ~~The Township,~~ or its designee ~~for purchase per Section XXX.~~ 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 an Affordable Housing Unit. If the Township or its designee does not purchase the ~~affordable units,~~ the developer may pay the fee in Affordable Housing Unit, it shall be conclusively demonstrated that there is no market for such unit being an Affordable Housing Unit, and the developer may remove the unit as an Affordable Dwelling Unit by payment of a fee to the Affordable Housing Trust Fund equal to one percent (1%) of the fee-in-lieu otherwise applicable for ~~the number of available~~ such affordable units. ~~If the developer has met all other requirements for this chapter, this payment shall release the affordable units to market rate units.~~ Upon the Township's receipt of this payment, the unit shall be released as an Affordable Dwelling Unit and become a market-rate unit, no longer subject to the terms and conditions of this Ordinance.

b) ~~By Unit Owner.~~ The owner of an Affordable Housing Dwelling Unit may remove the unit by subsequent sale to a non-qualifying owner by paying a fee in lieu to the Affordable Housing Trust 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.

10) ~~Recordable Instrument.~~ Upon release of an Affordable Housing Dwelling Unit, the Township and unit owner shall execute a recordable instrument indicating that the unit is no longer subject to the terms and conditions of this Ordinance.

11) **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.

12) **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 Borough's schedule of fees.

Document comparison by Workshare 9.5 on Thursday, July 23, 2020 2:27:25 PM

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Document 2 ID	interwovenSite://IMANAGE/SL1/1650291/2
Description	#1650291v2<SL1> - Affordable Housing Ordinance - Ferguson Township
Rendering set	Standard

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