

**Explanation:** This ordinance repeals a provision within the Township's Code which requires that master deeds for affordable developments differentiate between low and moderate income purchasers and market purchases for the purpose of levying condominium and homeowner association fees and special assessments. This change would be prospective only and would not impact previous affordable developments in the Township. This change puts the Township's code squarely in line with the state's existing Uniform Housing Affordability Control (UHAC) regulations.

**TOWNSHIP OF WARREN  
ORDINANCE #18-17**

**AN ORDINANCE OF THE TOWNSHIP OF WARREN, COUNTY OF SOMERSET, NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XVI ENTITLED "ZONING" BY AMENDING SUBSECTION (C) ENTITLED "REQUIREMENTS FOR 'FOR SALE UNITS'" OF SECTION 16-6.5 ENTITLED "AFFORDABILITY, STRATIFICATION AND INCOME LIMITS."**

**WHEREAS**, affordability controls for deed restricted affordable housing units are governed by the Uniform Housing Affordability Control (UHAC) regulations (N.J.A.C. 5:80-26.1 et seq.); and

**WHEREAS**, UHAC provides at N.J.A.C. 5:80-26.6(e) that "master deeds of affordable development shall provide no distinction between the condominium or homeowner association fees or special assessments of low and moderate income purchasers and those paid by market purchases;" and

**WHEREAS**, Section 16-6.5(c)(2) of the Revised General Ordinances of the Township of Warren requires that master deeds of affordable development differentiate between low and moderate income purchasers as opposed to market purchases for the purposes of setting condominium or homeowner association fees or special assessments; and

**WHEREAS**, such a provision falls within a "carve out" set forth in UHAC that allows for such ordinances because Section 16-6.5(c)(2) was adopted before October 1, 2001; and

**WHEREAS**, the Township wishes to update its Code so as to revert to the UHAC standard on this issue prospectively; and

**WHEREAS**, the Township understands that deleting Section 16-6.5(c)(2) would have only a prospective effect and would not remove or amend any requirement regarding master deeds of affordable development that came into being during the years Section 16-6.5(c)(2) was effective; and

**WHEREAS**, the Township also understands that, irrespective of the existence of any ordinance provision regulating condominium or homeowner association fees or special assessments, UHAC also provides at N.J.A.C. 5:80-26.6 that condominium and homeowners fees be considered when setting the initial price for affordable housing units.

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

**Section 1.** Subsection (c) "Requirements for 'For Sale' units" of Section 16-6.5 "Affordability; Stratification and Income Limits" of Chapter XVI "Zoning" is hereby amended as follows:

c. *Requirements for "For Sale" units:*

1. The initial price of a low and moderate income owner-occupied single-family housing unit will be established so that after a down payment of five (5%) percent, the monthly principal, interest, homeowner's insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed twenty-eight (28%) percent of the eligible gross monthly income; and
2. Master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments of low and moderate income purchasers at sixty-five (65%) percent of those paid by market purchasers. This sixty-five (65%) percentage is consistent with the requirement of N.J.A.C. 5:93-7.4(e). Once established within the master deed, the sixty-five (65%) percentage will not be amended without prior approval from COAH; and]
- 2[3]. The Township of Warren will follow the general provisions concerning uniform deed restriction liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and
- 3[4]. The Township of Warren will require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c); and
- 4[5]. Municipal, State, nonprofit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5–9.8. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:93-9.9; and
- 5[6]. The continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and
- 6[7]. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and
- 7[8]. The regulations detailed in N.J.A.C. 5:93-9.12–9.14 will be applicable to low and moderate income units that are for sale units.

**Section 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 3** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Warren, the provisions hereof shall be determined to govern. All other parts, portions and provisions of *The Revised General Ordinances of the Township of Warren* are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 4.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Warren for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit

to the Township Committee, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

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

**Section 6.** This Ordinance shall have prospective effect only from the effective date of its adoption.

\_\_\_\_\_  
Note to Codifier: Deleted provisions indicated by brackets [ ].  
New provision indicated in underline \_\_\_\_\_.

**ATTEST:**

  
\_\_\_\_\_  
Cathy Reese, RMC  
Township Clerk

**TOWNSHIP OF WARREN**

  
By: \_\_\_\_\_  
Victor J. Sordillo, Mayor

INTRODUCED: JUNE 14, 2018

ADOPTED: JULY 12, 2018

EFFECTIVE: JULY 19, 2018