

Introduced: 6/11/2019
Public Hearing: 7/9/2019
Adopted: 7/9/2019

ORDINANCE NO. 09-2019
TOWNSHIP OF TEWKSBURY
HUNTERDON COUNTY, NEW JERSEY

AN ORDINANCE AMENDING TEWKSBURY TOWNSHIP DEVELOPMENT CODE, ARTICLE II: PURPOSE, Article III DEFINITIONS, And Article VII ZONING PROVISIONS TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC).

WHEREAS, the Tewksbury Township Development Code, Article III DEFINITIONS are hereby amended to include provisions addressing Tewksbury's constitutional obligation to provide for its fair share of very-low, low, and moderate-income housing, as directed by the Superior Court and consistent with 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, as amended and supplemented. This Ordinance is intended to provide assurances that very-low, low, and moderate-income units (together referred to as "affordable units") are allowed in designated zones and that they are created with controls on affordability overtime and that very-low, low, and moderate-income households shall occupy those units.

NOW, THEREFORE BE IT ORDAINED, that the following amendments are hereby adopted:

ARTICLE II: PURPOSE

§200 Subsection Q is hereby deleted

ARTICLE III: DEFINITIONS

§ 301: WORDS AND TERMS DEFINE

"Administrative Agent" shall mean the entity duly designated and responsible for administering the affordability controls on very-low, low, and moderate-income units created in the Township of Tewksbury to ensure that the restricted units are affirmatively marketed and sold or rented, as applicable, only to very-low, low, and moderate households. For purposes of this section all references to the title and role of the Housing Consultant are transferred to the Administrative Agent. A fuller explanation of the responsibilities and role of the Administrative Agent may be found in the Tewksbury Municipal Code Chapter 15.12 Affordable Housing Ordinance.

"Affordable" shall mean a sales price or rent level that is within the means of a very-low, low, or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented

"Affordable Housing, (Project/s or Development/s)" shall mean any project or development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100) percent affordable housing development. Affordable Housing may also be used as a general term of art to apply to all tier levels of affordable housing (i.e. very-low, low, and moderate housing units.).

"Affordable Housing Program(s)" Shall mean any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation. The Affordable Housing Program first adopted as Ordinance No.7-86 of the

Township of Tewksbury and codified as Tewksbury Municipal Code §15.12, was replaced by a new Affordable Housing Ordinance in May 2019. The Housing Fund & Housing Officer positions have been renamed and modified below.

“Affordable Unit/s (Affordable Housing Unit/s)” shall mean a housing unit proposed or created pursuant to the Act and/or funded through an affordable housing trust fund.

“Affordable Housing Trust Fund”. The Housing Fund is now known as the Affordable Housing Trust Fund (AHTF). AHTF rules can be found at §15.10.070 of the Tewksbury Municipal Code. All mentions in this section to the Housing Fund are now replaced with the Affordable Housing Trust Fund (AHTF).

“Certified Household” shall mean a household that has been certified by an Administrative Agent as a very- low, low, or moderate-income household.

“COAH” Means the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) or any successor state agency.

“Development” shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

“Developer” shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Inclusionary Development” shall mean a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure

“Municipal Housing Liaison” Shall mean the municipal employee duly designated by the governing body with the responsibility for monitoring, reporting oversight and general administration of the affordable housing program for the Township of Tewksbury. The previous title and role of the Housing Officer is transferred to the Municipal Housing Liaison.

“Moderate-Income Household” shall mean a household with a total gross annual household income in excess of fifty (50) percent but less than eighty (80) percent of the regional median household income by household size.

“Moderate-Income Unit” shall mean a restricted unit that is affordable to a moderate-income household.

“Low-Income Household” shall mean a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-Income Unit” shall mean a restricted unit that is affordable to a low-income household.

“Very Low-Income Household” shall mean a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very Low-Income Unit” shall mean a restricted unit that is affordable to a very low-income household.

“UHAC” shall mean the Uniform Housing Affordability Controls set forth in NJAC 5:80-26, et. seq.

ARTICLE VII: Zoning Provisions

§ 707 - ZONING FOR AFFORDABLE HOUSING

A. Purpose. The purpose of this Section and related zoning provisions and the Affordable Housing Ordinance, codified as Municipal Code 15.12, is to assure a reasonable opportunity to provide for the Township's fair share of very-low, low- and moderate-income housing, as directed by the Supreme Court and consistent with 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, as amended and supplemented.

B. Required Participation.

1. The developer of any land in a zoning district designated as having an obligation to participate in the affordable housing program shall have a responsibility to participate in the production of very-low, low, and moderate-income housing.

2. In order to prevent the densities from inflating land costs that might be passed on to a third-party and thereby jeopardizing the number of affordable housing units that might be built when the intent is to subsidize the development of affordable housing, no application providing for increased intensities of development shall be approved unless the Approving Authority resolution granting approval contains a condition that the requirements for very-low, low, and/or moderate income affordable housing units shall be binding upon the applicant and all heirs, personal representatives, successors and assigns.

3. Subdivision and site plan approval on properties where the actual construction of affordable housing is required shall be denied unless the developer complies with the obligation to provide affordable housing pursuant to this Section, and the Approving Authority may impose any reasonable conditions to secure such undertaking.

4. Each affordable housing unit produced within a development required to contain affordable housing units shall comply with the affordability controls, the period of time during which the affordability controls apply, and all other rules and regulations as set forth in the Township's Housing Ordinance, codified at Municipal Code §15:12. All such units shall comply with any applicable regulations of the Council on Affordable Housing as to physical features of the unit (such as, but not limited to, facilities, entrances and parking). Units pursuant to Sections 709, 710, 710.1, and 713 shall be created so that at least one-half of the total of those created shall be affordable to low income units.

C. Waivers for Affordable Housing

The Approving Authority, when acting upon an application which includes provisions for affordable housing, shall waive those portions of the following standards if they do not create health and safety concerns for either the Township or the future residents of a development and they are not in conflict with the Residential Site Improvement Standards as promulgated by the State of New Jersey, otherwise the standard provisions of this Ordinance shall apply.

1. Curbs and gutters may be waived except in locations where drainage control and/or erosion control are necessary. When curbs and/or gutters are required, they shall conform to Section 603, except as modified by the following:

- a. Standard Concrete Vertical Curb. The curb shall be 8 inches wide on the top, 9 inches wide on the bottom and 20 inches high with a 6 inches exposed face after the street paving is completed. The standard curb section shall be 10 feet in length with performed bituminous cellular-type expansion joint material 2-inch thick spaced not more than 20 feet apart, shall be set in accordance with approved lines and grades, and radial curbs shall be formed in a smooth curve. The finish shall be a smooth float finish with corners rounded. Curbs shall be constructed using Class B concrete having a 28-day comprehensive strength of 4,500 p.s.i. and shall be air entrained.
- b. Rolled Concrete Curbing. The curb shall be 24 inches wide, 6 inches deep on the street pavement side, 10 inches deep on the lot side, and shall have a 1-inch depression below the pavement side located about one-third the distance from the pavement edge. The side adjacent to the street pavement shall be flush with the finished pavement surface.

c. Sloped Curbing. The curb shall be at least 14 inches wide at the base, set in the ground at least 18 inches on the side away from the street and at least 13 inches on the side abutting the street. The face of the curb shall angle way form the street pavement at least 30 degrees, but not more than 45 degrees, and have a flat surface at least 10 inches after the street paving is completed. The top of the curb shall be at least 2 inches wide measured between the top end of the angled face and the vertical side away from the street.

2. Piped storm water systems may be waived with swales substituted, except in situations where swales are likely to increase erosion control problems. If used, swales shall have a bottom elevation that will allow any water under the roadway or parking lot to seep out and drain away, have side slopes no steeper than 3 horizontal to 1 vertical, have a flat 4 foot wide bottom, be planted to stabilize the soils along the sides and bottom according to the soil types, have capacity for the computed runoff, be sloped to handle the rate of runoff while not eroding the soil, and allow a design flow of at least 0.5 foot per second, but not more than 2 feet per second. Intersections shall be crowned to assure positive drainage into the swales. Where pipes are installed at road/driveway crossings or other required locations, the pipes shall be continuations of the swales.

3. Street and other lighting shall be designated for locations best meeting overall public safety considerations considering intersections, public parking area, walkways, and the intensity of development. Where installed, lighting shall meet the requirements and/or objectives of Section 632.

4. Off-street parking designs may have waivers of some, but not all landscaping requirements, and may not be required to install curing around all parking lots. Curbing will be required, however, where drainage control is needed and where erosion potential cannot adequately be addressed by alternate methods.

5. Shade tree plantings may be reduced, but not eliminated, as called for in Section 631.

6. Sidewalks shall be installed in locations determined by the approving authority to be in the interest of public safety and proper pedestrian circulation. Sidewalks need not follow all streets and in some instances may be better to follow open space corridors. The determination of whether sidewalks are needed and where they are better to follow open space corridors. The determination of whether sidewalks are needed and where they are best located shall be based on the public safety considering the intensity of development, the probable volume of pedestrian traffic, the adjoining street classification where sidewalks parallel streets, access to school bus stops, recreation areas, and the general type of improvement intended. If required, sidewalks shall meet the following requirements: Concrete sidewalks shall be at least 4 inches thick except 6 inches at driveway crossings; be Class B concreated with 28 day compressive strength of 4,500 p.s.i; and have half-inch expansion joint material every 20 feet and where they abut curbing or a structure, bituminous sidewalks shall have a minimum 4 inch base of 1½ inch crushed stone; have at least a 2 inch FABC-1 wearing surface; and have a maximum 3 percent grade.

7. Interior streets may have paving widths reduced to the width permitted for cul-de-sacs provided such reduction are done only in conjunction with nearby, expanded off-street parking spaces.

(Ord. 11-2000 (part), 2000)

ARTICLE VII: Zoning Provisions

§ 709 - HL HIGHLANDS DISTRICT

C. Permitted Accessory Uses

10. Conversions for Affordable Housing. For the specific purpose of providing additional opportunities for affordable housing (specifically, very-low, low and moderate income housing) in the Township, lots: (1) whose principal use is for

residential purposes, or residential and agricultural purposes; and (2) which have only one dwelling unit (being a single-family dwelling) located thereon, may have the single-family dwelling thereon either converted from a portion of the first, existing single-family dwelling, or from an accessory structure on the lot, provided the following conditions are met:

a. As required under NJAC 5:97-6.8 (b)2, the Township will provide \$20,000 (moderate unit) or \$25,000 (low-income unit) subsidy for a conversion or an accessory apartment after the unit has been restricted for certified affordable households with a 10-year deed covenant and a certification of occupancy has been issued by the Township. This is subject to availability of funds from the Township's Affordable Housing Trust Fund.

b. The maximum floor area of the second dwelling unit shall be 900 square feet and the minimum floor area of neither dwelling, following conversion, shall be less than any then required by the N.J. Housing and Mortgage Finance Agency for funding purposes;

c. The second dwelling unit shall be rented only, and only to a family that is a certified household (very-low, low or a moderate-income) by the Administrative Agent. All families must become a certified household prior to occupancy. The administrative agent will provide affirmative marketing support, household certification, waiting listing services, program documentation support, and compliance monitoring for all units.

d. Any apartment converted with an existing family in place, must have the existing family income certified as a certified household by the administrative agent. If the family is certified, the 10-year period begins based on the date of the income certification letter. In the event, that the existing family is deemed, "not-income eligible", the 10-year deed term period shall be tolled until the existing "non-income eligible" family vacates, and a new certified household occupies the residence. During the interim, the Landlord will be required to annually submit evidence of occupancy via annual lease renewals to the administrative agent, and the Landlord must notify the administrative agent immediately upon notification of vacancy or eviction of the "non-income eligible" family, so that the administrative agent can begin the re-rental process. The effective running time for the 10-year shall begin upon occupation by a certified household. All procedures are more fully explained in Municipal Code 15.12 and the Administrative Agent Operating Manual & Accessory Apartment Manual.

e. All dwelling unit created under this program shall be deed restricted for a period of at least 10-years from the date of certification of occupancy. This 10-year deed restriction is subjected to tolling and modification if the unit is not occupied by a certified household or if the unit cannot maintain a valid certificate of occupancy. The Township will provide notice of the need for a deed restriction extension and a new deed restriction will be presented to the landlord to cover the extension period. It shall be the responsibility of the owner to pay all recording fees associated with the new deed restriction.

f. Landlords shall have an affirmative duty to notify the Administrative Agent of all evictions and vacancies within 5-Business Days of occurrence.

g. The Administrative Agent is responsible for the preparation and modification of the Affordable Housing Administrative Agent Policies & Procedures Manual and the Accessory Apartment Program Guidelines appendix. The Township has adopted and incorporated these policies and procedures manuals into its regulatory framework to further clarify and define the role and responsibilities of the Administrative Agent as well as the rules and the procedures to be followed when administering elements of Affordable Housing Program and the overall affordable housing program. These documents shall be controlling in all matters related to this subsection. These supplemental rules, policies and procedures are available for inspection at the Municipal Building during normal business hours.

- h. There shall be a recorded deed or declaration of covenants and restrictions applying to such second dwelling unit running with the land (whose form has been approved by the Township Attorney): (i) limiting its subsequent rental or sale within the requirements of subsections (10)(c), (d) and (e) of this Section; and (ii) containing such provisions (including controls or affordability) described in the Tewksbury Township Affordable Housing Ordinance, which shall apply for said period of 10-years;
- i. Each dwelling unit on the lot shall have its own exterior means of access which is separate from the other, and shall comply with all applicable construction and health codes;
- j. The potable water supply and sewage disposal system for the dwelling units shall be adequate;
- k. An accessory structure housing a dwelling unit on the lot as permitted under this Section shall meet the front, side and rear yard requirements equal to at least one-half of those required for a principal residential structure for the zoning district in which it is located;
- l. For units in a dwelling, any part of which is located closer than 100 feet to the street line, expanded off-street parking area shall be provided on the lot in a manner that will not have the parking spaces for one dwelling unit blocking those of another.

ARTICLE VII: Zoning Provisions

§ 709 - HL HIGHLANDS DISTRICT

D. Conditional Uses - In addition to the standards set forth in this subsection, all conditional uses shall meet other applicable design standards as set forth in Article VIII of this Ordinance.

3. Affordable housing conforming to the following requirements:

In order to provide additional opportunities for affordable housing and, in particular, to offer an opportunity to the affordable income families which include a farm worker, lots having at least 20 acres and whose principal use is a farm may also be permitted to have an accessory building used as a dwelling unit, provided:

- a. Each unit shall comply with the requirements of Section 707, that are not amended in this Section, and the Affordable Housing Ordinance codified at Municipal Code §15.12.
- b. Each such dwelling unit shall serve as living quarters for an employee of the farm, or the employee and his/her family.
- c. Each such unit shall be a maximum size of two bedrooms and have a maximum floor area of 900 square feet.
- d. No more than one dwelling unit shall be located in any one converted accessory building.
- e. Each unit shall be located so as to have setbacks twice those required for other farm accessory buildings except no such unit shall be located in any front yard unless it is set back from the street line at least 200 feet.
- f. The number of units (in addition to the principal dwelling) permitted under these provisions shall not exceed one unit per 10 acres, or one unit per 20 horse stalls, or a total of four units per lot, whichever results in the smaller number.
- g. Each unit shall have its own exterior means of access separate from any other unit.
- h. The potable water supply and sewage disposal system for the unit(s) and principal dwelling shall be adequate.

i. Additional off-street parking shall be made available for each unit in accordance with Section 721.

j. The property on which the housing is located shall be under Farmland Assessment.

ARTICLE VII: Zoning Provisions

§ 710 - LT LAMINGTON DISTRICT

C. Permitted Accessory Unit

9. Conversions for Affordable Housing. For the specific purpose of providing additional opportunities for affordable housing in the Township, lots: (1) whose principal use is for residential purposes, or residential and agricultural purposes; and (2) which have only one dwelling unit (being a single-family dwelling) located thereon, may have the single-family dwelling thereon either converted from a portion of the first, existing single-family dwelling, or from an accessory structure on the lot, provided the following conditions are met:

a. As required under NJAC 5:97-6.8 (b)2, the Township will provide \$20,000 (moderate unit) or \$25,000 (low-income unit) subsidy for a conversion or an accessory apartment after the unit has been restricted for certified affordable households with 10-year a deed covenant and a certification of occupancy has been issued by the Township. Subject to availability of funds from the Township's Affordable Housing Trust Fund.

b. The maximum floor area of the second dwelling unit shall be 900 square feet and the minimum floor area of neither dwelling, following conversion, shall be less than any then required by the N.J. Housing and Mortgage Finance Agency for funding purposes;

c. The second dwelling unit shall be rented only, and only to a family that is a certified household (very-low, low or a moderate-income) by the Administrative Agent. All families must become a certified household prior to occupancy. The administrative agent will provide affirmative marketing support, household certification, waiting listing services, program documentation support, and compliance monitoring for all units.

d. Any apartment converted with an existing family in place, must have the existing family income certified as a certified household by the administrative agent. If the family is certified, the 10-year period begins based on the date of the income certification letter. In the event, that the existing family is deemed, "not-income eligible", the 10-year deed term period shall be tolled until the existing "non-income eligible" family vacates, and a new certified household occupies the residence. During the interim, the Landlord will be required to annually submit evidence of occupancy via annual lease renewals to the administrative agent, and the Landlord must notify the administrative agent immediately upon notification of vacancy or eviction of the "non-income eligible" family, so that the administrative agent can begin the re-rental process. The effective running time for the 10-year shall begin upon occupation by a certified household. All procedures are more fully explained in Municipal Code 15.12 and the Administrative Agent Operating Manual & Accessory Apartment Manual.

e. All dwelling unit created under this program shall be deed restricted for a period of at least 10-years from the date of certification of occupancy. This 10-year deed restriction is subjected to tolling and modification if the unit is not occupied by a certified household or if the unit cannot maintain a valid certificate of occupancy. The Township will provide notice of the need for a deed restriction extension and a new deed restriction will be presented to the landlord to cover the extension period. It shall be the responsibility of the owner to pay all recording fees associated with the new deed restriction.

f. Landlords shall have an affirmative duty to notifying the Administrative Agent of all evictions and vacancies within 5-Business Days of occurrence.

g. The Administrative Agent is responsible for the preparation and modification of the Affordable Housing Administrative Agent Policies & Procedures Manual and the Accessory Apartment Program Guidelines appendix. The Township has adopted and incorporated these policies and procedures manuals into its regulatory framework to further clarify and define the role and responsibilities of the Administrative Agent as well as the rules and the procedures to be followed when administering elements of Affordable Housing Ordinance and the overall affordable housing program. These documents shall be controlling in all matters related to this subsection. These supplemental rules, policies and procedures are available for inspection at the Municipal Building during normal business hours.

h. There shall be a recorded deed or declaration of covenants and restrictions applying to such second dwelling unit running with the land (whose form has been approved by the Township Attorney): (i) limiting its subsequent rental or sale within the requirements of subsections C9 (c), (d) and (e) of this Section; and (ii) containing such provisions (including controls or affordability) described in the Tewksbury Township Affordable Housing Ordinance, which shall apply for said period of 10-years;

i. Each dwelling unit on the lot shall have its own exterior means of access which is separate from the other, and shall comply with all applicable construction and health codes;

j. The potable water supply and sewage disposal system for the dwelling units shall be adequate;

k. An accessory structure housing a dwelling unit on the lot as permitted under this Section shall meet the front, side and rear yard requirements equal to at least one-half of those required for a principal residential structure for the zoning district in which it is located;

l. For units in a dwelling, any part of which is located closer than 100 feet to the street line, expanded off-street parking area shall be provided on the lot in a manner that will not have the parking spaces for one dwelling unit blocking those of another.

ARTICLE VII: Zoning Provisions

§ 710 - LT LAMINGTON DISTRICT

D. Conditional Uses - In addition to the standards set forth in this subsection, all conditional uses shall meet other applicable design standards as set forth in Article VIII of this Ordinance.

3. Affordable housing conforming to the following requirements:

In order to provide additional opportunities for affordable housing and, in particular, to offer an opportunity to the affordable income families which include a farm worker, lots having at least 20 acres and whose principal use is a farm may also be permitted to have an accessory building used as a dwelling unit, provided:

a. Each unit shall comply with the requirements of Section 707, that are not amended in this Section, and the Affordable Housing Ordinance codified at Municipal Code §15.12.

b. Each such dwelling unit shall serve as living quarters for an employee of the farm, or the employee and his/her family.

c. Each such unit shall be a maximum size of two bedrooms and have a maximum floor area of 900 square feet.

d. No more than one dwelling unit shall be located in any one converted accessory building.

- e. Each unit shall be located so as to have setbacks twice those required for other farm accessory buildings except no such unit shall be located in any front yard unless it is set back from the street line at least 200 feet.
- f. The number of units (in addition to the principal dwelling) permitted under these provisions shall not exceed one unit per 10 acres, or one unit per 20 horse stalls, or a total of four units per lot, whichever results in the smaller number.
- g. Each unit shall have its own exterior means of access separate from any other unit.
- h. The potable water supply and sewage disposal system for the unit(s) and principal dwelling shall be adequate.
- i. Additional off-street parking shall be made available for each unit in accordance with Section 721.
- j. The property on which the housing is located shall be under Farmland Assessment.

ARTICLE VII: Zoning Provisions

§ 710.1 - FP FARMLAND PRESERVATION DISTRICT

C 10. Conversions for Affordable Housing. For the specific purpose of providing additional opportunities for affordable housing in the Township, lots: (1) whose principal use is for residential purposes, or residential and agricultural purposes; and (2) which have only one dwelling unit (being a single-family dwelling) located thereon, may have the single-family dwelling thereon either converted from a portion of the first, existing single-family dwelling, or from an accessory structure on the lot, provided the following conditions are met:

- a. As required under NJAC 5:97-6.8 (b)2, the Township will provide \$20,000 (moderate unit) or \$25,000 (low-income unit) subsidy for a conversion or an accessory apartment after the unit has been restricted for certified affordable households with a ten (10) year a deed covenant and a certification of occupancy has been issued by the Township. Subject to availability of funds from the Township's Affordable Housing Trust Fund.
- b. The maximum floor area of the second dwelling unit shall be 900 square feet and the minimum floor area of neither dwelling, following conversion, shall be less than any then required by the N.J. Housing and Mortgage Finance Agency for funding purposes;
- c. The second dwelling unit shall be rented only, and only to a family that is a certified household (very-low, low or a moderate-income) by the Administrative Agent. All families must become a certified household prior to occupancy. The administrative agent will provide affirmative marketing support, household certification, waiting listing services, program documentation support, and compliance monitoring for all units.
- d. Any apartment converted with an existing family in place, must have the existing family income certified as a certified household by the administrative agent. If the family is certified, the 10-year period begins based on the date of the income certification letter. In the event, that the existing family is deemed, "not-income eligible", the 10-year deed term period shall be tolled until the existing "non-income eligible" family vacates, and a new certified household occupies the residence. During the interim, the Landlord will be required to annually submit evidence of occupancy via annual lease renewals to the administrative agent, and the Landlord must notify the administrative agent immediately upon notification of vacancy or eviction of the "non-income eligible" family, so that the administrative agent can begin the re-rental process. The effective running time for the 10-year shall begin upon occupation by a certified household. All procedures are more fully explained in Municipal Code 15.12 and the Administrative Agent Operating Manual & Accessory Apartment Manual.

e. All dwelling unit created under this program shall be deed restricted for a period of at least 10-years from the date of certification of occupancy. This 10-year deed restriction is subjected to tolling and modification if the unit is not occupied by a certified household or if the unit cannot maintain a valid certificate of occupancy. The Township will provide notice of the need for a deed restriction extension and a new deed restriction will be presented to the landlord to cover the extension period. It shall be the responsibility of the owner to pay all recording fees associated with the new deed restriction.

f. Landlords shall have an affirmative duty to notifying the Administrative Agent of all evictions and vacancies within 5-Business Days of occurrence.

g. The Administrative Agent is responsible for the preparation and modification of the Affordable Housing Administrative Agent Policies & Procedures Manual and the Accessory Apartment Program Guidelines appendix. The Township has adopted and incorporated these policies and procedures manuals into its regulatory framework to further clarify and define the role and responsibilities of the Administrative Agent as well as the rules and the procedures to be followed when administering elements of Affordable Housing Ordinance and the overall affordable housing program. These documents shall be controlling in all matters related to this subsection. These supplemental rules, policies and procedures are available for inspection at the Municipal Building during normal business hours.

h. There shall be a recorded deed or declaration of covenants and restrictions applying to such second dwelling unit running with the land (whose form has been approved by the Township Attorney): (i) limiting its subsequent rental or sale within the requirements of subsections C 10 (c), (d) and (e) of this Section; and (ii) containing such provisions (including controls or affordability) described in the Tewksbury Township Affordable Housing Ordinance, which shall apply for said period of 10-years;

i. Each dwelling unit on the lot shall have its own exterior means of access which is separate from the other, and shall comply with all applicable construction and health codes;

j. The potable water supply and sewage disposal system for the dwelling units shall be adequate;

k. An accessory structure housing a dwelling unit on the lot as permitted under this Section shall meet the front, side and rear yard requirements equal to at least one-half of those required for a principal residential structure for the zoning district in which it is located;

l. For units in a dwelling, any part of which is located closer than 100 feet to the street line, expanded off-street parking area shall be provided on the lot in a manner that will not have the parking spaces for one dwelling unit blocking those of another.

ARTICLE VII: Zoning Provisions

§ 710.1 - FP FARMLAND PRESERVATION DISTRICT

D. Conditional Uses - In addition to the standards set forth in this subsection, all conditional uses shall meet other applicable design standards as set forth in Article VIII of this Ordinance.

3. Affordable housing conforming to the following requirements:

In order to provide additional opportunities for affordable housing and, in particular, to offer an opportunity to the affordable income families which include a farm worker, lots having at least 20 acres and whose principal use is a farm may also be permitted to have an accessory building used as a dwelling unit, provided:

- a. Each unit shall comply with the requirements of Section 707, that are not amended in this Section, and the Affordable Housing Ordinance codified at Municipal Code §15.12.
- b. Each such dwelling unit shall serve as living quarters for an employee of the farm, or the employee and his/her family.
- c. Each such unit shall be a maximum size of two bedrooms and have a maximum floor area of 900 square feet.
- d. No more than one dwelling unit shall be located in any one converted accessory building.
- e. Each unit shall be located so as to have setbacks twice those required for other farm accessory buildings except no such unit shall be located in any front yard unless it is set back from the street line at least 200 feet.
- f. The number of units (in addition to the principal dwelling) permitted under these provisions shall not exceed one unit per 10 acres, or one unit per 20 horse stalls, or a total of four units per lot, whichever results in the smaller number.
- g. Each unit shall have its own exterior means of access separate from any other unit.
- h. The potable water supply and sewage disposal system for the unit(s) and principal dwelling shall be adequate.
- i. Additional off-street parking shall be made available for each unit in accordance with Section 721.
- j. The property on which the housing is located shall be under Farmland Assessment.

ARTICLE VII: Zoning Provisions

§ 710.2 - PM PIEDMONT DISTRICT

C. Permitted Accessory Uses.

5. Home Occupation

Conversions for Affordable Housing. For the specific purpose of providing additional opportunities for affordable housing in the Township, lots: (1) whose principal use is for residential purposes, or residential and agricultural purposes; and (2) which have only one dwelling unit (being a single-family dwelling) located thereon, may have the single-family dwelling thereon either converted from a portion of the first, existing single-family dwelling, or from an accessory structure on the lot, provided the following conditions are met:

- a. As required under NJAC 5:97-6.8 (b)2, the Township will provide \$20,000 (moderate unit) or \$25,000 (low-income unit) subsidy for a conversion or an accessory apartment after the unit has been restricted for certified affordable households with a ten (10) year a deed covenant and a certification of occupancy has been issued by the Township. Subject to availability of funds from the Township’s Affordable Housing Trust Fund.
- b. The maximum floor area of the second dwelling unit shall be 900 square feet and the minimum floor area of neither dwelling, following conversion, shall be less than any then required by the N.J. Housing and Mortgage Finance Agency for funding purposes;
- c. The second dwelling unit shall be rented only, and only to a family that is a certified household (very-low, low or a moderate-income) by the Administrative Agent. All families must become a certified household prior to occupancy. The administrative agent will provide affirmative marketing support, household certification, waiting listing services, program documentation support, and compliance monitoring for all units.

d. Any apartment converted with an existing family in place, must have the existing family income certified as a certified household by the administrative agent. If the family is certified, the 10-year period begins based on the date of the income certification letter. In the event, that the existing family is deemed, "not-income eligible", the 10-year deed term period shall be tolled until the existing "non-income eligible" family vacates, and a new certified household occupies the residence. During the interim, the Landlord will be required to annually submit evidence of occupancy via annual lease renewals to the administrative agent, and the Landlord must notify the administrative agent immediately upon notification of vacancy or eviction of the "non-income eligible" family, so that the administrative agent can begin the re-rental process. The effective running time for the 10-year shall begin upon occupation by a certified household. All procedures are more fully explained in Municipal Code 15.12 and the Administrative Agent Operating Manual & Accessory Apartment Manual.

e. All dwelling unit created under this program shall be deed restricted for a period of at least 10-years from the date of certification of occupancy. This 10-year deed restriction is subjected to tolling and modification if the unit is not occupied by a certified household or if the unit cannot maintain a valid certificate of occupancy. The Township will provide notice of the need for a deed restriction extension and a new deed restriction will be presented to the landlord to cover the extension period. It shall be the responsibility of the owner to pay all recording fees associated with the new deed restriction.

f. Landlords shall have an affirmative duty to notifying the Administrative Agent of all evictions and vacancies within 5-Business Days of occurrence.

g. The Administrative Agent is responsible for the preparation and modification of the Affordable Housing Administrative Agent Policies & Procedures Manual and the Accessory Apartment Program Guidelines appendix. The Township has adopted and incorporated these policies and procedures manuals into its regulatory framework to further clarify and define the role and responsibilities of the Administrative Agent as well as the rules and the procedures to be followed when administering elements of Affordable Housing Ordinance and the overall affordable housing program. These documents shall be controlling in all matters related to this subsection. These supplemental rules, policies and procedures are available for inspection at the Municipal Building during normal business hours.

h. There shall be a recorded deed or declaration of covenants and restrictions applying to such second dwelling unit running with the land (whose form has been approved by the Township Attorney): (i) limiting its subsequent rental or sale within the requirements of subsections C5 (c), (d) and (e) of this Section; and (ii) containing such provisions (including controls or affordability) described in the Tewksbury Township Affordable Housing Ordinance, which shall apply for said period of 10-years;

i. Each dwelling unit on the lot shall have its own exterior means of access which is separate from the other, and shall comply with all applicable construction and health codes;

j. The potable water supply and sewage disposal system for the dwelling units shall be adequate;

k. An accessory structure housing a dwelling unit on the lot as permitted under this Section shall meet the front, side and rear yard requirements equal to at least one-half of those required for a principal residential structure for the zoning district in which it is located;

l. For units in a dwelling, any part of which is located closer than 100 feet to the street line, expanded off-street parking area shall be provided on the lot in a manner that will not have the parking spaces for one dwelling unit blocking those of another.

ARTICLE VII: Zoning Provisions

§ 710.2 - PM PIEDMONT DISTRICT

D. Conditional Uses - In addition to the standards set forth in this subsection, all conditional uses shall meet other applicable design standards as set forth in Article VIII of this Ordinance.

3. Affordable housing conforming to the following requirements:

In order to provide additional opportunities for affordable housing and, in particular, to offer an opportunity to the affordable income families which include a farm worker, lots having at least 20 acres and whose principal use is a farm may also be permitted to have an accessory building used as a dwelling unit, provided:

- a. Each unit shall comply with the requirements of Section 707, that are not amended in this Section, and the Affordable Housing Ordinance codified at Municipal Code §15.12.
- b. Each such dwelling unit shall serve as living quarters for an employee of the farm, or the employee and his/her family.
- c. Each such unit shall be a maximum size of two bedrooms and have a maximum floor area of 900 square feet.
- d. No more than one dwelling unit shall be located on any one converted accessory building.
- e. Each unit shall be located so as to have setbacks twice those required for other farm accessory buildings except no such unit shall be located in any front yard unless it is set back from the street line at least 200 feet.
- f. The number of units (in addition to the principal dwelling) permitted under these provisions shall not exceed one unit per 10 acres, or one unit per 20 horse stalls, or a total of four units per lot, whichever results in the smaller number.
- g. Each unit shall have its own exterior means of access separate from any other unit.
- h. The potable water supply and sewage disposal system for the unit(s) and principal dwelling shall be adequate.
- i. Additional off-street parking shall be made available for each unit in accordance with Section 721.
- j. The property on which the housing is located shall be under Farmland Assessment.

§ 713 - TH-V TOWNHOUSE VILLAGE DISTRICT

A. Purpose. The purpose of this district is to provide a zone in Pottersville for townhouses consistent with the mediation agreement with the Council on Affordable Housing and the Township's obligation to provide opportunities for very-low, low, and moderate-income housing.

B. Permitted Principal Uses.

1. Townhouses
2. Potter/Bunk and Victorian houses.

D. Area, Yard and Bulk Requirements. The maximum density shall be 2.3 units/acre, but in any event up to, but not more than 30 units shall be permitted. Of these 30 units, there shall be 26 new market units, 3 low/moderate units in the Potter/Bunk House located on-site (which shall include a minimum of six bedrooms overall), and 1 market unit in the Victorian House which is also on-site. The overall development shall also conform to the following:

1. Of the three affordable units, one shall be for a low-income household at 50% of the region's median income, and two shall be for moderate income households, one at 80% of median and the other at 65.5% of median.
2. The lower income units shall be deed restricted for 20 years as per N.J.A.C. 5:92-12.

§714.1 - SOUTH OLDWICK RESIDENTIAL DISTRICT

E. Area, Yard, Bulk and Other District Regulations. Development under the South Oldwick Residential District regulations shall meet the following standards and conditions:

2. The maximum number of dwelling units permitted in the South Oldwick Residential District shall be seventy-six (76), comprising at most one detached single-family dwelling situated on the Existing House Lot (described below), and at most seventy-five (75) townhouses. Two of the townhouses shall be affordable housing units conforming to COAH standards, with one of such units being restricted for low income occupancy and the other of such units being restricted for moderate income occupancy.

9. As to the two affordable housing townhouse dwellings, the developer(s) shall, as a condition of final approval of the development, enter agreement(s) with the Township and its Administrative Agent, whereby the developer shall affirmatively market such units for initial purchase and sell the affordable units as qualifying affordable units under regulations applicable to low, and moderate income housing promulgated by COAH and under other applicable law. One of such units shall be restricted for purchase by a low-income household earning not more than 50% of the housing region's median income and the other of such units shall be restricted for purchase by a low-income household earning not more than 80% of the housing region's median income. The affordability controls and other requirements apply, and such two units shall also be deed-restricted for 30 years pursuant to COAH regulations (including those of N.J.A.C. 5:93-9, or successor regulation). Documents in recordable form shall be submitted to the Township, and reviewed and subject to the approval of the Township Attorney, prior to the time of, or as a condition of, final approval for the development, insuring that the initial affirmative marketing of such units is carried out by the developer and that the units remain qualified as lower income units under applicable laws and regulations, for a period of at least 30 years. Pursuant to N.J.A.C. 5:93-9.3, no certificate of occupancy for initial occupancy of such unit shall be issued unless the unit is controlled by appropriate deed restrictions and COAH approved form of mortgage lien.

§ 716 - VB VILLAGE BUSINESS DISTRICT

B. Permitted Principal Uses.

3. Detached single-family dwelling.
4. One dwelling unit, in the same building with a permitted business use provided:
 - a. The business is being conducted only in the first floor and/or basement of the building;
 - b. Such dwelling unit shall have its own means of access separate from any other use in the building.
5. A second dwelling unit, in the same building with a permitted business use provided:
 - a. All requirements set forth in subsections B.4.a. and b of this Section are satisfied;

b. The second dwelling shall be a rental unit and rented only to a family that is a certified household (very-low, low or a moderate-income) by the Administrative Agent. All families must become a certified household prior to occupancy. The administrative agent will provide affirmative marketing support, household certification, waiting listing services, program documentation support, and compliance monitoring for all units.

c. The second dwelling shall, for a period of at least 10-years from the date of initial occupancy, be rented only at such rent levels affordable by very-low, low, or moderate-income households as defined pursuant to New Jersey's Fair Housing Act;

d. There shall be a recorded deed or declaration of covenants and restrictions applying to such second dwelling unit running with the land (whose form has been approved by the Township Attorney): (i) limiting its subsequent rental or sale within the requirements of subsections, 3, 4, & 5 of this Section; and (ii) containing such provisions (including controls or affordability) described in the Tewksbury Township Affordable Housing Ordinance, which shall apply for said period of 10-years;

e. Any apartment converted with an existing family in place, must have the existing family income certified as a certified household by the administrative agent. If the family is certified, the 10-year period begins based on the date of the income certification letter. In the event, that the existing family is deemed, "not-income eligible", the 10-year deed term period shall be tolled until the existing "non-income eligible" family vacates, and a new certified household occupies the residence. During the interim, the Landlord will be required to annually submit evidence of occupancy via annual lease renewals to the administrative agent, and the Landlord must notify the administrative agent immediately upon notification of vacancy or eviction of the "non-income eligible" family, so that the administrative agent can begin the re-rental process. The effective running time for the 10-year shall begin upon occupation by a certified household. All procedures are more fully explained in Municipal Code 15.12 and the Administrative Agent Operating Manual & Accessory Apartment Manual.

f. All dwelling unit created under this program shall be deed restricted for a period of at least 10-years from the date of certification of occupancy. This 10-year deed restriction is subjected to tolling and modification if the unit is not occupied by a certified household or if the unit cannot maintain a valid certificate of occupancy. The Township will provide notice of the need for a deed restriction extension and a new deed restriction will be presented to the landlord to cover the extension period. It shall be the responsibility of the owner to pay all recording fees associated with the new deed restriction.

g. Landlords shall have an affirmative duty to notifying the Administrative Agent of all evictions and vacancies within 5-Business Days of occurrence.

h. The Administrative Agent is responsible for the preparation and modification of the Affordable Housing Administrative Agent Policies & Procedures Manual and the Accessory Apartment Program Guidelines Appendix. The Township has adopted and incorporated these policies and procedures manuals into its regulatory framework to further clarify and define the role and responsibilities of the Administrative Agent as well as the rules and the procedures to be followed when administering elements of Affordable Housing Ordinance and the overall affordable housing program. These documents shall be controlling in all matters related to this subsection. These supplemental rules, policies and procedures are available for inspection at the Municipal Building during normal business hours.

Repeal of Prior Inconsistent Provisions

All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Severability Provision

If any section, paragraph, subsection, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining ordinance as a whole or any part thereof.

Effective Date Provision

BE IT FURTHER ORDAINED by the Tewksbury Township Committee that this ordinance shall take effect immediately upon publication following final passage and the filing of a copy hereof with the Hunterdon County Planning Board and the Highlands Council.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Tewksbury held on June 11, 2019, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at the regular meeting of the Township Committee to be held On July 9, 2019 at 7:30pm or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 169 Old Turnpike Road, Califon, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Adopted:

William Voyce, Mayor
Township Committee

Attest:

Jennifer Ader
Acting Municipal Clerk