

NOTICE is hereby given that the foregoing Ordinance was introduced on first reading at a regular meeting of the Committee of the Township of Kingwood held on December 6, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on December 28, 2018 at 3:00p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 599 Oak Grove Road, Frenchtown, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE NO. 19-23-2018

**AN ORDINANCE AMENDING CHAPTER CXXXIII, AFFORDABLE HOUSING, ARTICLE II, THIRD ROUND AFFORDABLE HOUSING REGULATIONS, ARTICLE III, ACCESSORY APARTMENTS, AND CHAPTER CXXXII, ZONING, CREATING NEW REGULATIONS FOR AFFORDABLE ACCESSORY APARTMENTS TO ADDRESS KINGWOOD TOWNSHIP'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, in order to establish zoning provisions that provide a realistic opportunity for development of affordable housing in response to Kingwood Township's Third Round affordable housing obligations and consistent with Kingwood Township's Third Round settlement agreement by and between Kingwood Township and Fair Share Housing Center, dated December 2, 2018, recommended by the Superior Court Special Master and approved by Honorable Thomas C. Miller, P.J.S.C., Superior Court of New Jersey; and

**WHEREAS**, Kingwood Township's Third Round Housing Plan Element and Fair Share Plan for addressing its Prior Round and Third Round obligations includes a variety of affordable housing types, including affordable accessory apartments; and

**WHEREAS**, Kingwood Township's existing accessory apartment regulations require updating to reflect current conditions for consistency with Kingwood Township's Court-approved Third Round Housing Plan Element and Fair Share Plan; and

**WHEREAS**, Kingwood Township' Third Round settlement agreement by and between Kingwood Township and Fair Share Housing Center, dated December 2, 2018 calls for the creation of six (6) affordable accessory apartments;

**NOW THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Kingwood, County of Hunterdon as follows:

**SECTION 1.** Chapter 83, Article II, Third Round Affordable Housing Regulations, § 83-12.4, Accessory Apartments, to be retitled Affordable Accessory Apartments, and § 83-12.6, New Construction, are hereby amended and supplemented to read, as follows (note to codifier: text removed from this subsection is shown as strikethrough text, "~~thus~~", and text added is shown as underlined text, "thus"):

**§ 83-12.4 Affordable Accessory Apartments.**

A. This article anticipates the creation of not less than six (6) Affordable ~~, nor more than 10~~ Accessory Apartments.

B. Affordable Accessory Apartments created pursuant to Kingwood Township's third-round obligations shall be exempt from the very-low-income housing requirement of 13% and the bedroom mix requirements established pursuant to N.J.A.C. 5:26-1, et seq. (UHAC). All Affordable Accessory Apartments shall be low-income units.

C. Affordable Accessory Apartments created pursuant to Kingwood Township's third-round obligations shall conform in all other respects to the provisions applicable to tenant selection, income eligibility and affirmative marketing of affordable units.

D. Affordable Accessory Apartments shall be deed restricted and marketed as low-income affordable rental housing in accordance with N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. 5:93-1, et seq., for a period of not less than 10 years.

§ 83-12.6 New Construction, Subsection D. (1) is hereby amended and supplemented to read, as follows (note to codifier: text removed from this subsection is shown as strikethrough text, “~~thus~~”, and text added is shown as underlined text, “thus”):

**(1)** In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth below: ~~in the consent order entered on December 16, 2016, by the Honorable Douglas K. Wolfson, JSC, In the Matter of the Township of East Brunswick for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No. MID-L-004013-15.~~

- (a) Regional income limits shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township’s housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- (b) The income limits attached hereto as Exhibit A are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2018, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- (c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year’s income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

**SECTION 2.** Chapter, 83, Article II, Third Round Affordable Housing Regulations, Subsection 83-12.19. C. is hereby revised to read, as follows (note to codifier: text removed from this subsection is shown as strikethrough text, “~~thus~~”, and text added is shown as underlined text, “thus”):

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, ~~Monmouth~~ Middlesex and ~~Ocean~~ Somerset Counties.

**SECTION 3.** Chapter 83, Article III, Accessory Apartments, is hereby amended and supplemented by repealing Sections § 83-13 through § 83-17 (note to codifier: These provisions are being reestablished with amendments in Zoning, Chapter 132, Article IV Supplemental Regulations as new § 132-26, currently “Reserved.”).

**SECTION 4.** Chapter 132, Zoning, Article III, District Regulations, is hereby amended and supplemented, as follows:

A. § 132-30 AR-2 Agricultural and Single-family Residential District, subsection C. Accessory uses permitted, is hereby amended by adding the following new Subsection C. (10):

(10) Affordable Accessory Apartments in accordance with § 132-26.

B. § 132-30 AR-2 Agricultural and Single-family Residential District, Subsection D.(6) is hereby repealed and “reserved”.

C. § 132-31 VR-1 Village Residential District, Subsection C. Permitted accessory uses, is hereby amended and supplemented by adding the following new Subsection C.(7).

(7) Affordable Accessory Apartments in accordance with § 132-26.

D. § 132-31 VR-1 Village Residential District, Subsection D.(1) is hereby repealed and “reserved”.

E. § 132-33 VC-1 and VC-2 Village Commercial District, Subsection C. Permitted accessory uses, is hereby amended and supplemented by adding the following new Subsection C.(8), as follows:

(8) Affordable Accessory Apartments in accordance with § 132-26.

F. § 132-33 VC-1 and VC-2 Village Commercial District, Subsection D.(1)(a). is hereby repealed and “reserved”.

G. § 132-34 HC Highway Commercial District, Subsection D.(2) is hereby repealed and “reserved”.

H. § 132-35 BP Business Park, Subsection C. Accessory uses, is hereby amended and supplemented by adding a new Subsection C.(8), as follows:

(8) Not more than one Affordable Accessory Apartment per lot in accordance with § 132-26.

I. § 132-36 PO/R Professional Office/Residential District, Subsection C. Permitted accessory uses, is hereby amended and supplemented by adding a new subsection C.(7), as follows:

(7) Affordable Accessory Apartments in accordance with § 132-26.

J. § 132-36 PO/R Professional Office/Residential District, Subsection D.(1) is hereby repealed and “reserved”.

**SECTION 5.** Chapter 132, Zoning, Article IV Supplemental Regulations § 132-26 “Reserved.” is hereby replaced with the following new § 132-26 Affordable Accessory Apartments, as follows:

§ 132-26 Affordable Accessory Apartments.

- A. Purpose. An Affordable Accessory Apartment Ordinance is hereby enacted for the purpose of providing additional opportunities for low--income housing in Kingwood Township.
- B. Definition. An Affordable Accessory Apartment is a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a low- or a moderate-income household. The Affordable Accessory Apartment may be created within an existing dwelling unit, may be created within an existing structure on the lot or be an addition to an existing home or accessory building.
- C. All Affordable Accessory Apartment units shall conform to the following requirements:
- (1) The bulk requirements of the zone in which the Affordable Accessory Apartment is created shall be met;
  - (2) Affordable Accessory Apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes;
  - (3) The Affordable Accessory Apartment shall be rented only to a household which is a duly qualified low--income household at the time of initial occupancy of the unit;
  - (4) The Affordable Accessory Apartment shall, for a period of at least 10 years from the date of the issuance of a certificate of occupancy, be rented only to a low--income household;
  - (5) Rents of Affordable Accessory Apartments shall be affordable to low- income households as established in accordance with § 83.4 D.(1) after deducting the applicable utility allowance;
  - (6) Affordable Accessory Apartments shall be used to address Kingwood Township's Third Round fair-share obligation and Affordable Accessory Apartments shall not be created, rented or occupied except in accordance with the provisions for affordable housing (Chapter 83); ;
  - (7) There shall be a recorded deed restriction applied to the property upon which the Affordable Accessory Apartment is located, running with the land and limiting its subsequent rental or sale within the requirements of Subsection C.(3), (4) and (5) above and restricting occupancy of the Affordable Accessory Apartment to a low-income households for a period of not less than 10 years from the date of initial occupancy of the Affordable Accessory Apartment by a qualified low-income household;
  - (8) Each Affordable Accessory Apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom. The Affordable Accessory Apartment shall contain not less than 550 sq. ft. in area, not including breezeways, closets, storage areas and unheated space. If the Affordable Accessory Apartment is created as accessory to another dwelling unit, at least one of the dwelling units shall be not less than 850 sq. ft.;
  - (9) The Affordable Accessory Apartment shall have a separate door with direct access to the outdoors;
  - (10) The potable water supply and sewage disposal system for the Affordable Accessory Apartment shall be adequate; and
  - (11) The Affordable Accessory Apartment shall be affirmatively marketed throughout the housing region and occupancy shall be limited to an income-qualified low-income household.
- D. In the case of an accessory apartment that has been created illegally or without proper permits which the property owner desires to legitimize as an Affordable Accessory Apartment under this article, all of the requirements of this article and Chapter 83 shall apply, except that no subsidy need be provided by the municipality.
- (1) The conversion of an illegal apartment to an Affordable Accessory Apartment under this section shall conform to C. (3), (4), (5) and (7) above and all other requirements of this Article and Chapter 83. After a period of not less than 10 years as a deed restricted affordable low-income Affordable Accessory Apartment, the apartment may be retained as a market-rate accessory apartment according to the provisions of Ordinance 18-13-93 for temporary accessory apartments.
- E. Creation of Affordable Accessory Apartments; limitations.
- (1) Affordable Accessory Apartments can only be created in one of the following two ways:

- (a) New construction of, or conversion of existing space in a principal or accessory building to, an Affordable Accessory Apartment.
- (b) The conversion of illegally created accessory apartments.
- (2) Upon creation of two (2) municipally subsidized Affordable Accessory Apartments, the Township shall determine the necessity of funding additional Affordable Accessory Apartments based on how many illegal accessory apartments have been converted to Affordable Accessory Apartments.

F. Administration of Affordable Accessory Apartment program.

The Township of Kingwood shall designate its Affordable Housing Administrator to administer the Affordable Accessory Apartment program.

- (1) The Affordable Housing Administrator shall administer the Affordable Accessory Apartment program, including advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the Affordable Accessory Apartments.
- (2) The Affordable Housing Administrator shall only deny an application for an Affordable Accessory Apartment if the project is not in conformance with the requirements of this Article and Chapter 83. All denials shall be in writing with the reasons clearly stated.
- (3) Kingwood Township shall provide, except for conversion of illegal accessory apartments, at least \$10,000 to subsidize the creation of an Affordable Accessory Apartment that conforms to the requirements of this section and Chapter 83 requirements. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with Kingwood Township insuring that the subsidy shall be used to create the Affordable Accessory Apartment and the apartment shall meet the requirements of this article and the Affordable Housing Regulations set forth in Chapter 83.

G. Applications. Applicants for the creation of an Affordable Accessory Apartment shall submit to the Zoning Officer and Affordable Housing Administrator:

- (1) A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
- (2) Rough elevations showing the modification of any exterior building facade to which changes are proposed; and
- (3) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units and any man-made conditions which might affect construction.
- (4) Evidence of adequate potable water and wastewater disposal for all uses on the property including the Affordable Accessory Apartment. The applicant shall be required to submit evidence that the septic system has been satisfactorily tested and designed, which may take the form of an approval from the Hunterdon County Health Department certifying as to the adequacy of the water supply and sewage disposal systems for all uses on the property.
- (5) Upon the Zoning Officer's confirmation that the application satisfies all of the provisions of this paragraph G., the Zoning Officer shall issue a permit conditioned on the Administrative Agent's further review of the application for compliance with all other applicable requirements for Affordable Accessory Apartments, including the filing of the deed restriction and compliance with the affirmative marketing, tenant income qualification and leasing of the unit.

**SECTION 6.** The Code of The Township of Kingwood, Chapter 132, Article VI Conditional Uses, Section 132-102, Standards for Approval, Subsection D, Accessory apartments (temporary), is hereby repealed and replaced with the following new subsection D., as follows:

D. Accessory apartments (temporary)

- (1) Accessory apartments (temporary) created under the provisions of Ordinance No. 18-13-93 that have received approval for a temporary accessory apartment from the Planning Board in accordance with former §§ 132-102.D.(3) (g) & (n) may continue under the provisions of former §

132-102.D.(3)(k), but shall terminate upon the sale of property or transfer of title of the dwelling or when it is no longer used as a dwelling for a disabled or elderly family member.

**SECTION 7. Renumbering.** This ordinance may be renumbered for codification purposes.

**SECTION 8. Repealer.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 9. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Effective Date.** This Ordinance shall take effect upon passage and publication as provided by law.

TOWNSHIP COMMITTEE OF  
TOWNSHIP OF KINGWOOD

Richard Dodds, Mayor

Attest: December 28, 2018

Cynthia L. Keller, RMC  
Township Clerk

Introduction: December 6, 2018  
Publication: December 13, 2018  
Final Adoption: December 28, 2018  
Publication By Title Only: January 10, 2018

**ROLL CALL VOTE:**

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
T. Ciacciarelli						
M. Syrnick						
R. Dodds						

I, **Cynthia L. Keller**, Clerk of the Township of Kingwood, County of Hunterdon and State of New Jersey do hereby certify the foregoing to be a true copy of **Ordinance No. 19-23-2018** adopted by the Kingwood Township Committee on December 28, 2018.

Cynthia L. Keller, RMC  
Township Clerk