

# Amendment A

(As amended by the Planning Board on 1/20/2021)

**Description:** Article XIV-A Workforce Housing. Comprehensively amend this article to do the following: (1) ensure consistency with state law requirements; (2) simplify application and administration; and (3) eliminate unnecessary provisions. Changes include allowing multi-family residential development in the Commercial and Intervale Districts and adding “multi-family workforce housing” to the Use Regulations table.

## ARTICLE XIV-A

### WORKFORCE HOUSING

#### INCLUSIONARY HOUSING ACCOMMODATION INCENTIVE SYSTEM

*[Approved March 2010]*

The Town of Warner recognizes the importance and benefit to the community and its citizens in the establishment of suitable opportunities for Workforce Housing. The Town recognizes that there are some situations in which normal Zoning, Site Plan Review and/or Subdivision requirements may be waived without sacrificing public health, safety and welfare so long as proper safeguards are maintained. Accordingly, it has been deemed advisable to adopt Workforce Housing in accordance with 674:58-61.

#### Purpose Statement

The purposes of this Article are as follows:

1. To encourage and provide for the development of affordable workforce housing within Warner;
2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households;
3. To meet the goals related to affordable and workforce housing provisions set forth in the town’s Master Plan.

In the course of implementing this ordinance, the Town of Warner has considered the region’s affordable housing needs as described in the Central New Hampshire Regional Planning Commission’s Housing Needs Assessment and the Regional Fair Share Analysis.

A. Authority: This innovative land use control Article is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a).

#### B. Definitions

1. **Affordable:** means housing with combined rental and utility costs or combined mortgage loan debt services, properly property taxes, and required insurance that do not exceed 30 percent of a household’s gross annual income. ~~The calculation of~~

~~housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5-percent down payment, and prevailing mortgage rates within the region.~~

2. **Workforce Housing:** means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this Article.
3. **Area Median Income (AMI):** the median income of the greater region HUD Fair Market Area to which Warner belongs, as is established and updated annually by HUD.
4. ~~Assets: as defined as "Net Family Assets" by 24 CFR Part 5 Subpart F, and as amended from time to time.~~
5. ~~Income: as defined as "Annual Income" by 24 CFR Part 5 Subpart F, and as amended from time to time~~ annual gross income as reported to the Internal Revenue Service on Form 1040.
6. **Market Rate Housing:** any dwelling unit within a development, whether the unit is to be owner or renter occupied, this is intended to be available ~~for sale or occupancy~~ at the prevailing market ~~value for the area similar to comparable real estate transactions~~ rate without restriction.

#### C. Workforce Housing Categories and Incentive System

~~Workforce housing may be developed under this article in the areas Warner Zoning Districts eligible for consideration under this Article are shown as hatched on the Overlay Map at the end of this Article.~~

1. ~~Workforce Multifamily Housing shall be eligible may be developed in Districts R-1, R-2 and B-1, subject to the limitations in Article IV.K and L. Workforce Multifamily Housing developments in Districts C and INT shall not be subject to Article IV.K and L.~~
2. A site plan or subdivision plan that will guarantee a designated percentage of dwelling units, reserved as workforce housing, may be approved with an increase in the density of the site and a reduction of the minimum site frontage as is set forth in the appropriate section of the Zoning Ordinance. The Planning Board may allow a reduction of the minimum lot size to accommodate the increased site density.
3. A site plan or subdivision plan can mix housing types and accumulate density bonus to a maximum bonus equal to 30 percent where municipal sewer and water are available or in areas without water and sewer service to the maximum density

permitted by on-site well and septic standards of the New Hampshire Department of Environmental Services as applied to the site, up to a maximum density bonus of 30 percent. When mixing dwelling unit types, the designated percentage for each individual affordable housing type may be less than that required but shall total at least 30%. The density bonus is then proportioned to the actual percentage of designated workforce dwelling units provided, so that if the applicant provides only one-half of the required designation of one type of affordable housing they will receive one-half of the density bonuses. The combined total of all workforce housing types must equal a 15 percent designation of workforce dwelling units, at a minimum.

4. Planning Board and Zoning Board application fees shall be waived for workforce housing developments, except ~~direct expenses may be waived at the discretion of the Board for costs associated with abutter and public notice, for independent review and studies required by either board as allowed by RSA 673:16, and for recording of plans and associated documents.~~
5. Building Standards:
  - a. Dwelling units designed and designated for the accommodation of workforce housing shall meet the use provisions of the underlying zoning district.
  - b. Where acreage meets size requirements for the appropriate zoning district, the development shall be reviewed as an Open Space Development.
  - c. Manufactured housing is acceptable for workforce housing accommodation provided they meet current local, state, and federal codes and regulations.
  - d. All developments qualifying for review as workforce housing shall be compatible but need not be identical in architectural style and exterior appearance with ~~the~~ any market rate dwelling units in the same development. The workforce housing dwelling units must be interspersed with market rate dwelling units of the same type.

#### D. General Requirements of Workforce Dwelling-Housing Units

1. To ensure that the project is completed as permitted, the dwelling units qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project's market dwelling-rate housing units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the workforce housing dwelling units. The first third of the market rate dwelling-housing units may be completed first to assist in the viability of the project. A schedule setting forth the phasing of the ~~required housing dwelling units development~~ shall be established ~~prior to the issuance of a building permit for any development subject to the provisions of this Article as a condition of the Planning Board's approval.~~
2. To ensure that only eligible households purchase/rent the designated workforce housing dwelling units, the purchaser/renter of a workforce dwelling unit must submit written certification and evidence verifying that their annual income level, combined with household assets, does not exceed the maximum level as established by this Article.

- a. For workforce housing units to be sold, income qualification of potential purchasers shall be based on a process identified in the units' restrictive covenants, which shall be subject to Planning Board approval as a condition of the approval of the development and recorded in the Merrimack County Registry of Deeds. The written certification of income and assets must be submitted to the developer of the dwelling units, or the developer's agent, prior to the transfer of title with a copy given to the Board of Selectmen. A written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in sections of this Article, within 30 days following transfer of title.
  - b. For workforce housing units to be rented, income qualifications of potential tenants shall be reported to the Board of Selectmen or its designee. The manner and format of such of reporting shall be subject to Planning Board approval as a condition of the approval of the development.
3. All applicants under this Article must submit the following data to ensure project affordability:
- a. Calculation of the number of Workforce Housing ~~dwelling~~ units provided under this Article and how it relates to the Ordinance provisions.
  - b. ~~Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.~~
  - e. — Description of each dwelling unit's size, type, estimated cost and other relevant data.
  - d. Documentation of ~~household purchaser/tenant~~ eligibility requirements as required in sections of this Article.
  - e. All agreements established as part of this Article.
  - f. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability.

#### E. Assurance of Continued Affordability

In order to qualify as workforce housing under this Article, the developer must make a binding commitment that the workforce housing units will remain affordable as indicated below for a period of 30 years. This ~~shall~~ may be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a ~~local, state or federal housing authority or other non-profit housing trust or governmental~~ agency. The ~~30-year term, the~~ deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:

- 1. Workforce housing ~~dwelling~~ units offered for sale in a development that includes both workforce housing and market rate housing shall require a lien, granted to Warner, be placed on each unit. The value of the dwelling unit and its reduced "affordable" sale price, which is indexed according to the qualifying income standards. The municipality's lien is inflated over time at a rate equal to the

Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of maintenance of the municipality's lien and adherence to the Article's Definition of Workforce Owner-Occupied Housing ~~for a period of 30 Years.~~

2. Workforce housing units offered for sale in a development that includes only workforce housing shall be subject to a recorded restriction for a period of at least 30 years, such that any purchaser during the affordability period shall meet the income standards of this Article, subject to specific terms of the recorded restriction.
3. Workforce housing rental ~~dwelling~~-units shall limit ~~annual-monthly~~ rent ~~increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions to the recommended maximum affordable rental cost for workforce housing, as published annually by the New Hampshire Housing Finance Authority.~~
4. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the Warner Planning Board and the Merrimack County Registry of Deeds.

#### F. Administration, Compliance and Monitoring

1. This article shall be administered by the Planning Board. Applications for the provisions provided under this article shall be made to the Planning Board and shall be part of the submission of an application for site plan or subdivision plan approval.
2. ~~No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing dwelling unit and confirmation of the rent or price of the workforce housing dwelling unit as documented by an executed lease or purchase and sale agreement.~~
3. ~~On-going responsibility for monitoring the compliance with resale and rental restrictions on workforce dwelling housing units shall be the responsibility of the Board of Selectmen or their its designee.~~
4. ~~The owner of a project containing workforce dwelling units for rent shall prepare an annual report, due on April 30, certifying that the gross rents of workforce dwelling units and the household income of tenants of workforce units have been maintained in accordance with this article. Such reports shall be submitted to the Board of Selectmen or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.~~

#### ~~G.~~ Relationship to Other Ordinances and Regulations

1. No portion of this Article shall nullify the provisions of any other Town ordinance provisions which relate to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life protection.
2. If any provision of this Article is in conflict with the provisions of other

Ordinances, the more restrictive provision shall apply, except for any provision relating to lot size, frontage, setbacks, or density, in which case the provisions of this Article shall apply.

Attached Workforce Housing Overlay Map:

## **TABLE I** **USE REGULATIONS**

### **RESIDENTIAL**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. One-family detached dwelling <i>[Amended March 2012]</i>	P	P	P	P	S	P		P
2. Two-family dwelling <i>[Amended March 2012]</i>	P	P	S	P	S			
3. Multi-family dwelling <i>[Amended March 2012]</i>	P	P	S	P	S			
4. Conversion of existing dwelling structure to multifamily dwelling	P	P	S	P	P	S		
4. Accessory Apartment <i>[Adopted March 2012]</i>	P	P	P	P		P		P

Change to renumber Accessory Apartment as #5 and add:

6. Multi-family Workforce Housing	P	<u>PS</u>	S	P	<u>PS</u>		<u>PS</u>	
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NOTE: At its meeting on 1/20/2021, the planning board amended this proposal to have multi-family workforce housing allowed in R-2, C, and INT by special exception, rather than have it allowed by right.