

**TOWNSHIP OF MANALAPAN
ORDINANCE NO. 2020-02**

AN ORDINANCE AMENDING CHAPTER 95 (DEVELOPMENT REGULATIONS), ARTICLE V, ZONING DISTRICT REGULATIONS, OF THE CODE OF THE TOWNSHIP OF MANALAPAN, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY TO ESTABLISH AN AFFORDABLE HOUSING OVERLAY ZONE UPON CERTAIN LAND WITHIN THE LI (LIGHT INDUSTRIAL) ZONING DISTRICT, PROVIDING FOR MULTI-FAMILY HOUSING WITH AN INCLUSIONARY SET-ASIDE OF AFFORDABLE HOUSING TO BE DEVELOPED SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS

WHEREAS, the Township filed a declaratory judgment action captioned In the Matter of the Application of the Township of Manalapan, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. MON-L-2518-15 (the “Mt. Laurel Litigation”) following the New Jersey Supreme Court’s decision in the matter of In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, wherein the Supreme Court directed that municipalities which were before the Council on Affordable Housing, such as the Township of Manalapan, were required to file declaratory judgment actions in the Superior Court to evaluate compliance with their Mt. Laurel obligations in order to maintain immunity from builder’s remedy litigation; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center which included as part of its compliance plan an inclusionary project with a thirty percent set aside for the property designated on the Township Tax Map as Block 30, Lots 2, 3.01, 3.02, 4 and 7.01 (the “Subject Property”), which will allow for up to 175 market rate units and 75 affordable housing units available to low, very-low and moderate income households (the “Project”); and

WHEREAS, the Settlement Agreement with Fair Share Housing Center, the Developer’s Agreement with the developer of the Subject Property and the expected Court Order approving the Settlement Agreement requires the Township to rezone the Subject Property to allow for the development of the Project to assist the Township in meeting its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Township Committee believes it is in the best interest of the Township to abide by its obligations under the Settlement Agreement with Fair Share Housing Center, the Developer’s Agreement; and the anticipated Court Order approving the Settlement Agreement;

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Manalapan, County of Monmouth, State of New Jersey, that Affordable Housing Overlay Zone (AH-O) is hereby established and applied to certain lands along Sobechko Road, east of Wilson Avenue, as follows:

SECTION I. Chapter 95, "Development Regulations," Article V, "Zoning District Regulations," of the Code of the Township of Manalapan, be and the same is hereby amended and supplemented to add thereto the following subsection:

"95-5.6J AH-O Affordable Housing - Overlay District

(1) Purpose.

The intent of the AH-O Affordable Housing Overlay District is to establish a suitable location within the township for the development of low- and moderate-income housing uses in the form of an inclusionary development. This zoning district will provide realistic opportunities for the construction of low- and moderate-income housing to implement the Township housing element and Third Round (1999-2025) fair share plan, which Fair Share Plan has been approved by the Superior Court following the resolution of the Township's declaratory judgment action (In the Matter of the Application of Manalapan Township, Monmouth County, Docket No. L-2518-15) which action follows the directive of the Supreme Court's decision in the matter of In re Adoption of N.J.A.C. 5:96 & N.J.A.C. 5:97, 221 N.J. 1 (2015).

The residential gross density shall be guided by the area requirements and bulk standards contained herein, subject to the inclusion of a specified percentage of affordable homes. All development shall further comply with the rules and regulations of the Township affordable housing office and the regulations, as applicable, of COAH (N.J.A.C. 5:91 and 5:92 et seq.) and the Uniform Housing Affordability Controls (UHAC) (N.J.A.C. 5:80-26.1, et seq.).

(2) Applicability.

The Affordable Housing Overlay Zone shall be applied to Block 30, Lots 2, 3.01, 3.02, 4 and 7.0, as shown on the Official Tax Map of the Township of Manalapan. The Official Zoning Map of the Township of Manalapan is hereby amended in accordance with the foregoing and is incorporated by reference. For the purpose of permitting the development of a multi-family inclusionary development, the provisions and requirements of

the Affordable Housing Overlay Zone shall supersede the provisions and restrictions of the underlying LI (Light Industrial) Zone district. In the event of a conflict between the provisions of this section and other sections of the Township development regulations with respect to the development of market-rate townhouses and affordable housing, the provisions of this Affordable Housing Overlay Zone shall govern.

(3) Definitions.

- (1) A “townhouse attached dwelling” shall be a residential structure with common walls, without common ceilings or floors, consisting of three or more dwellings.
- (2) A “multi-family” attached dwelling for low, very low and moderate income housing shall be a residential structure with common walls, floors and ceilings, consisting of 9 or more dwellings.

(4) Uses permitted.

The following uses are permitted in the AH-O Affordable Housing Overlay District:

- (a) Townhouse attached dwellings.
- (b) Multi-family attached units for low, very low and moderate income dwellings, which dwellings can, at the developer’s option, be made available for-sale or for rent.
- (c) Parking facilities to serve an off-site adjacent commercial use.

(5) Accessory uses and structures permitted.

The following accessory uses and structures are permitted in the AH-O Affordable Housing Overlay District:

- (a) Home occupations and home professional offices, as defined and regulated by the provisions in this chapter.

- (b) Signs, as regulated in this chapter.
- (c) Fences, as regulated in this chapter.
- (d) Patios and decks, as regulated by this chapter.
- (e) Improvements on common area property, as approved by the Planning Board.

(6) Minimum tract size and open space requirements.

- (a) The minimum tract size for a development in the AH-O Affordable Housing Overlay District shall be 20 acres.
- (b) The property owner shall provide for the establishment of an organization for the ownership and maintenance of any common property and such organization shall be established and regulated by all applicable statutory standards and conditions.
- (c) A perimeter tract buffer shall be required at a minimum width of 40 feet, within which no building improvements shall be permitted, however, landscape materials and fencing up to six (6) feet in height shall be permitted within the perimeter tract buffer area. The fencing shall not be erected, altered or reconstructed within ten (10) feet of any roadway or edge of pavement.

(7) Area, yard, density and locational requirements for residential development.

- (a) For the purpose of determining gross residential density, the total tract of land shall be considered.
- (b) The maximum gross residential density shall not exceed 10 units per acre.
- (c) Thirty (30) percent of the units produced shall be set aside for low- and moderate-income households with the development of such low and moderate income units being in compliance with the applicable provisions of N.J.A.C. 5-93 and the UHAC.

- (d) No townhouse unit shall have fewer than two exposures.
- (e) No residential building shall have a length in excess of 180 feet.
- (f) If townhouse dwellings are to be constructed and sold on fee-simple lots, the following area and dimensional requirements shall apply:

Market-Rate Units

- (a) Minimum Lot Area: 1,760 square feet
- (b) Minimum Lot Width: 22 feet
- (c) Minimum Lot Depth: 80 feet

- (g) Setback and additional requirements for all residential uses, including low and moderate multi-family attached dwellings:

- (a) Minimum building separation:
 - Front to Front: 70 feet
 - Rear to Rear: 40 feet
 - All other building to building: 25 feet
- (b) Minimum Setbacks:
 - From a street line: 12 feet
 - From a parking area: 8 feet

- (d) Maximum number of townhouse market-rate attached dwelling units per building: 8

- (e) Maximum number of multi-family (low/mod) attached dwelling units per building: 15

- (h) No townhouse attached dwellings shall be located within 40 feet of the tract boundary line and no multi-family attached dwellings shall be located within 15 feet of the tract boundary line. Fee-simple lot lines, however, may extend into the perimeter tract buffer area provided that no building improvements are located therein.

- (i) Common area property may contain certain improvements, such as underground utility lines, stormwater management features, decks/patios, landscaping, fencing, signage, walking paths and sidewalks.
- (j) No residential building or structure shall exceed 40 feet in height, except as regulated by the height exception provisions of this chapter. No residential building or structure shall be designed to be more than 3 stories in height.
- (k) All provisions of the Residential Site Improvement Standards (RSIS) shall be applicable within the AH-O Affordable Housing Overlay District.

(8) Miscellaneous requirements.

- (a) All roadways within the mixed use multi-family inclusionary development shall remain private and are the sole responsibility of the Homeowners Association.
- (b) More than one multi-family attached building shall be permitted on a lot.
- (c) The following sign regulations shall apply, and shall supersede the sign standards set forth under §95-5.6 D(9). Instead, signage for multi-family inclusionary development shall adhere to the requirements set forth in §95.8.7H(1)(f) with the following exceptions:
 - (a) Main entry sign may be illuminated; and
 - (b) Main entry sign shall not exceed 36 square feet in area nor six feet in height.
- (d) At the developer's discretion, land may be conveyed to a third party for the purpose of providing parking facilities for an off-site but adjacent use.
- (e) The following provisions set forth in Chapter 95 shall not apply to development in the AH- O Affordable Housing Overlay District: §95-6.10, §95-7.34, §95- 7.40, §95-8.3, §95-8.9 and §95-8.12."

SECTION II. Any Ordinance or portions thereof, which are inconsistent with the provisions of the Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION III. If any portion of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provision of this Ordinance are declared to be severable.

SECTION IV. This Ordinance shall take effect immediately upon final passage and publication according to law and its filing with the Monmouth County Planning Board.

NOTICE OF PUBLIC HEARING

The Ordinance published herewith was Introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on January 29, 2020 and will be further considered for final passage after a Public Hearing thereon before the Township Committee of the Township of Manalapan during a meeting to be held on Wednesday, February 12, 2020 at the Municipal Complex, 120 Route 522 and Taylors Mills Road, Manalapan, New Jersey at 7:30 p.m. or as soon thereafter as the matter may be reached, or at any meeting to which that meeting may be adjourned, at which time any and all persons who may be interested therein will be given an opportunity to be heard.

The proposed Ordinance in its entirety is on file in the Municipal Clerk's Office and copies may be obtained without charge between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. A complete copy may also be obtained from the Manalapan Township web-site www.mtnj.org by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of February 12, 2020.

REGINA PRETEROTI, RMC
Municipal Clerk