

**TOWNSHIP OF MANALAPAN  
COUNTY OF MONMOUTH**

**ORDINANCE NO. 2021 – 05**

**AN ORDINANCE AMENDING CHAPTER 95 (DEVELOPMENT REGULATIONS), ARTICLE V, ZONING DISTRICT REGULATIONS OF THE TOWNSHIP OF MANALAPAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY TO ESTABLISH A NEW AFFORDABLE HOUSING ZONING DISTRICT ENTITLED “AF-MF AFFORDABLE HOUSING MULTIFAMILY ZONE”**

**WHEREAS**, in accordance with “In the Matter of Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015)” (“Mount Laurel IV”), the Township of Manalapan filed an action for declaratory judgment entitled In the matter of the Township of Manalapan, Docket No. MON-L-2518-15 (“the DJ Matter”) requesting that the court declare Manalapan Township in compliance with its Third Round constitutional obligation to provide a realistic opportunity for the development of affordable housing for low and moderate income families and individuals; and

**WHEREAS**, the Township entered into a Settlement Agreement with Fair Share Housing Center and the Court reviewed and approved the Settlement Agreement after a Fairness Hearing, which review and approval has been memorialized in an Order of Fairness and Preliminary Compliance entered and filed by the court on January 21, 2020 which included a 100 multi-family rental units one-hundred percent affordable housing development known as the Skeba project on the property known as Block 72.01, Lot 69(the “Skeba Project”).

**WHEREAS**, the Court Order approving the Settlement Agreement requires the Township to take all necessary action so that the Skeba Project is under construction within two years of the Court approval of the Settlement Agreement including the adoption of a zoning ordinance which allows for the Skeba Project to be developed in accordance with the requirements of the Fair Housing Act and Uniform Housing Affordable Controls (“UHAC”), N.J.A.C. 5:80-26.1 et.s eq.

**WHEREAS**, the Township Committee of the Township of Manalapan believes it is in the best interest of the Township’s residents that it implements the Settlement Agreement to maintain immunity from builder’s remedy litigation.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Manalapan, County of Monmouth, State of New Jersey, that the AF-MF Affordable Housing Multi-Family District is hereby established and applied to certain lands being Block 72.01, Lot 69 on the Tax Map of the Township of Manalapan as follows:

SECTION I. Chapter 95, “Development Regulations,” Article V, “Zoning District Regulations,” of the Code of the Township of Manalapan, Section 95-5.6 entitled, “Overlay

Districts”, be and the same is hereby amended and supplemented to add thereto a new subsection to read, in full, as follows:

**“ O. AF-MF Affordable Housing Multi-Family Zone**

(1) Purpose and Intent:

The intent of the AF-MF Affordable Housing Multi-Family Zone district is to provide for a Municipally Sponsored, 100-unit one hundred percent (100%) affordable non-age restricted rental development consistent with the Settlement Agreement entered into by and between the Township and Fair Share Housing Center dated July 11, 2019 and an Amended Settlement Agreement dated October 16, 2019.

(2) Permitted Uses:

(a) Principal Uses:

- i. Multifamily rental affordable apartments
- ii. One on-site residential manager’s apartment

(b) Accessory Uses:

- i. Community Building and Management/Leasing Offices
- ii. Parking and electric vehicle charging stations
- iii. Private and Public Utility Structures, including Standby Generators
- iv. Patios, decks & porches
- v. Parks and playgrounds
- vi. Fences and Walls
- vii. Mailboxes
- viii. Signage
- ix. Trash Enclosures and Recycling Areas
- x. Community gardens
- xi. Temporary construction trailer
- xii. Any use which is customarily incidental and subordinate to the principal use.

(3) Bulk Standards:

Minimum Lot Area:	14 acres
Minimum Front Yard Setback for Principal Structures:	80 feet
Minimum Side Yard Setback for Principal Structures:	30 feet

Minimum Rear Yard Setback for Principal Structures:	75 feet
Maximum Building Height:	50 feet
Maximum Lot Coverage:	60%
Maximum Density:	8 units/acre
Maximum Units per Building:	24 units
Maximum Building Length:	175 feet
Minimum Distance Between Buildings:	30 feet
Minimum Distance Between Buildings and Parking Spaces:	10 feet
Minimum Distance Between Curb and Property Line:	5 feet

No accessory structures are permitted in the front yard area\*\*

Minimum side yard setback for accessory structures:	5 feet
Minimum rear yard setback for accessory structures:	5 feet

\*\*This requirement shall not apply to the community building or tot lot which shall be setback from the Route 33 corridor by a minimum of 75 feet.

Multifamily units may be provided in one or more structures on the same lot.

(4) Additional Requirements:

- (a) The affordable housing units shall not be age-restricted.
- (b) Off-street parking stalls shall have a minimum width of 9 feet and a minimum depth of 18 feet.
- (c) All parking, garages and circulation shall be designated in accordance with the New Jersey Residential Site Improvement Standards (RSIS). No additional parking spaces are required for the Community Building.
- (d) The following sign regulations shall apply, and shall supersede the sign standards set forth under §95-5.6 D(9). Instead, signage for this development shall adhere to the requirements set forth in §95.8.7H(1)(f) with the following exceptions:
  - i. Main entry sign may be illuminated; and
  - ii. Main entry sign shall not exceed 36 square feet in area nor six feet in height.
  - iii. Directional and information signs are permitted, not to exceed 9 square feet in area.
- (e) Waiver of Cost Generative Measures pursuant to N.J.A.C. 5:93-10.1, et seq. In order to permit the intended, agreed upon development of the Property, the

Township agrees to abide by the COAH Regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b). Specifically:

- i. Any development within the AF-MF Affordable Housing Multi-Family zone shall be exempt from Section 120-12 (CCO), Section 222-24 through 222-28 (Tree Replacement), Section 95-7.44 and Section 95-9.3(k) (Detention Basin and Basin Maintenance Escrow), Section 95-5.6D(3), D(8), and D(9) (Route 33 Overlay), Section 95-8.3, Section 95-8.5 (Landscape Design Requirements), Section 95-8.6 (Architectural Design), Section 95-8.9 (Open Space Design), Section 95-7.40 (Minimum Improvable Area), Section 95-10.1A(1), (2), and (4) (Performance Guarantees), Section 95-6.10 (Multi-family Development Requirements), and the Tree Replacement Regulations set for at Section 188-194, et seq., within the Township code.
- ii. Section 95-5.6B (Flood Hazard Overlay District), Section 95-7.34 (Floodway) and Section 95-8.12 (Stream Corridor) shall not apply. The development shall conform to NJDEP requirements and regulations, as applicable.
- iii. Any development within the AF-MF zone shall not be required to submit a tree survey.
- iv. No Buffers are required with the exception of those required under Section 95-5.6D (Route 33 Overlay Zone).
- v. Route 33 access shall be in accordance with all New Jersey Department of Transportation standards and approvals, including sidewalk requirements
- vi. Any development within the AF-MF Affordable Housing Multi-Family zone shall be subject to the provisions of N.J.A.C. 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.
- vii. The Parties acknowledge and agree that the Township's waiver of otherwise applicable development regulations serves as financial assistance to an affordable housing development that is reimbursable to the Township from the Township's Affordable Housing Spending Plan.
- viii. Building height shall be measured from the average grade around the perimeter of the building to the mid-point of the roof.

## (5) Landscaping Requirements

- (a) A landscaping plan prepared by a licensed landscape architect (LLA) licensed in the State of New Jersey. The plan shall be prepared with the following design principles in mind:
- (b) An overall recurring pattern of plant groupings and material shall be provided throughout the site, integrating the various elements of site design to create pleasing and identifiable site characteristics.
- (c) Landscaping shall include a plant palette consisting of deciduous and evergreen trees, shrubs, ground cover, perennials and annuals.
- (d) The use of native, salt tolerant, deer resistant material is encouraged. Monocultures of material will not be accepted.
- (e) Where existing natural growth is proposed to remain, the plans shall include methods, notes and details to protect existing trees and growth during and after construction.
- (f) Plant species variety shall be selected with consideration given to different colors, textures, shapes, blossoms and foliage and should provide a four-season interest.
- (g) Landscaping shall be provided in public areas and adjacent to buildings to screen parking areas, mitigate adverse impacts, and provide windbreaks for winter winds and summer cooling for buildings, streets and parking.
- (h) Plant selection shall be based upon the premise to provide material that will best serve the intended function and use as well as to provide materials appropriate for local soil conditions, water conservation and the environment.
- (i) The type and amount of plant material shall be varied throughout the development with accent given to site entrances. Consider massing trees at critical points.
- (j) Consideration shall be given as to the choice and location of plant materials in order to screen or create views, to define boundaries between private and common open space, to minimize noise, to articulate outdoor spaces and define circulation systems.

(k) All proposed material shall be drawn to scale to reflect a 15-20-year growth. Planting schedules showing common and botanical names, installed and mature sizes and horticultural interest shall be provided along with applicable installation notes and details.

(l) Landscaping shall be provided as part of site plan and subdivision design. It shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character.

(m) All trees shall be guaranteed for a minimum of one year from the time of planting by the applicant against death and disease.

(n) Planting specification. Deciduous trees shall be at least 2 1/2 inches caliper at planting and should be balled and wrapped in burlap. Size of evergreens should be four feet tall and shrubs two feet tall at planting but may be allowed to vary depending on setting and type of shrub. Only nursery-grown plant materials shall be acceptable, and trees, shrubs, and ground cover shall be planted according to accepted horticultural standards. Dead and dying plants shall be replaced by the developer during the following planting season.

(6) Affordable Apartment Requirements:

- (a) Pursuant to N.J.A.C. 5:80-26.1 (“UHAC”), UHAC does not apply to units qualifying for the Federal Low-Income Housing Tax Credit under Section 42 of the Internal Revenue Code. However, the affordable rental units shall comply with Sections 2 through 6, below, as applicable. In addition, the affordable rental units shall have an Affordability Average as defined in UHAC, which is no more than 52 percent of median income.
- (b) All Affordable Units shall be subject to deed restrictions on income limits for a period of not less than thirty (30) years from the date that a certificate of occupancy issued for each of the affordable units. If this Project is financed with Low Income Housing Tax Credits, then the HMFA required deed restriction shall be provided.
- (c) The affordable dwelling units shall be split equally between moderate income units and low-income units. Pursuant to N.J.S.A. 52:27D-329.1, no less than thirteen percent (13%) of the affordable housing units of each bedroom type shall be reserved as very low-income housing units, as such term is defined in N.J.S.A. 52:27D-304 and the UHAC. No less than thirty-seven percent (37%) of the affordable housing units of each bedroom type shall be available as low-income housing units and no less than fifty percent of the affordable housing

units shall be available as moderate-income housing units, as such terms are defined in N.J.S.A. 52:27D-304 and the UHAC.

- (d) In the event that an equal split of the affordable dwelling units between moderate and low income units results in a fraction of a unit, the additional unit shall be reserved for low income households.
- (e) All affordable units shall be affirmatively marketed in conformance with the UHAC, N.J.A.C. 5:80-26.15, or any successor regulation. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(£)(5), FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch branches of the NAACP, and the Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of this Ordinance, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
- (f) All affordable units shall be subject to the bedroom distribution required by the UHAC, N.J.A.C. 5:80-26.3, or any successor regulation. All new construction affordable housing units shall be adaptable in conformance with N.J.S.A. 52:27D-311a-311b, P.L. 2005, c. 350 and all other applicable laws.”

Section II. All Manalapan Township existing Ordinances or parts of existing Ordinances that are in conflict or inconsistent with the requirements of this Ordinance are hereby expressly repealed to the extent that they are in conflict or inconsistent with this Ordinance.

Section III. In the event that any Section or other provision of this Ordinance is found or determined to be unenforceable or invalid by a Court of competent jurisdiction, such holding of shall be deemed not to affect the validity of the Ordinance as a whole, or any part thereof, other than the part(s) specifically so held to be unenforceable or invalid by said Court of competent jurisdiction.

Section IV. This Ordinance shall not be effective until approved by the Superior Court of New Jersey after a compliance hearing and after the proper adoption of the Ordinance including first and second reading and publication, in accordance with New Jersey law.

## NOTICE OF PUBLIC HEARING

The above entitled Ordinance was introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on [March 10, 2021](#) 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 [April 14, 2021](#) 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 Website [www.mtnj.org](http://www.mtnj.org) by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of [April 14, 2021](#).

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SHARI ROSE, RMC  
Township Clerk