



BOROUGH OF ATLANTIC HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 017-2018

An Ordinance adding Section 104 to Chapter 150 (Development Regulations) in the Atlantic Highlands Borough Code, which will be entitled “Affordable Housing Mandatory Set-Aside”

INTERPRETIVE STATEMENT

This Ordinance amends the Borough land use ordinances by establishing new regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multi-family residential development of five (5) dwelling units produces affordable housing at a set-aside rate of 20%; which regulations will be set forth in the Borough Code in connection with the Borough’s Third Round Housing Element and Fair Share Plan consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough’s affordable housing obligations. This Ordinance will not apply to the Borough’s CDB, HBD, LI, R-TH and OR zones, as said zones already have affordable housing set-aside requirements.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 104 of Chapter 150 (Development Regulations) of the Code of the Borough of Atlantic Highlands entitled “Affordable Housing Set-Aside”, under a new article entitled “Article VIII – Affordable Housing Requirements”, is hereby created and established to read as follows:

Article VIII: Affordable Housing Requirements

150-104 Affordable Housing Mandatory Set-Aside

A. Purpose

This section is intended to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%). This section shall apply except where inconsistent with applicable law. This section will not apply to the Borough's CDB, HBD, LI, R-TH and OR zones, as said zones already have affordable housing set-aside requirements.

B. Affordable Housing Mandatory Set-Aside Requirement

If the Borough or the Borough's Planning Board permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough's Planning Board shall require that an appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Planning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. For any such development for which the Borough's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective the Ordinance creating this section was adopted, this requirement shall only apply if the Borough or the Borough's Planning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date the Ordinance creating this section was adopted. Nothing in this paragraph precludes the Borough or the Borough's Planning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%). This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for

approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with FSHC, which was executed by the Borough on January 26, 2018, or in the Borough's 2018 Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein. As such, this section will not apply to the Borough's CDB, HBD, LI, R-TH and OR zones, as said zones already have affordable housing set-aside requirements.

Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Atlantic Highlands, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Atlantic Highlands are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Atlantic Highlands for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

Section 6. This Ordinance shall be presented to the Mayor for her approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either her approval or objection to same within ten (10) days after it has been presented to her, then this Ordinance shall be deemed approved.

Section 7. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

INTRODUCED the 12th day of September, 2018.

Motion: Introduce Ordinance 17-2018, **Moved by** Councilwoman Hohenleitner, **Seconded by** Councilman Lero

Vote: Motion carried by roll call vote (**summary:** Yes = 5).

Yes: Councilman Boracchia, Councilman Crowley, Councilman Fligor, Councilwoman Hohenleitner, Councilman Lero

No: None

Abstain: None

Absent: Councilman Delloso

Public Hearing and Possible Adoption will be held on September 26, 2018 at 7:00pm

I, Michelle Clark, Acting Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Regular Meeting, held September 12, 2018. WITNESS my hand this 13th day of July 2018.



Michelle Clark
Acting Municipal Clerk

