

BOROUGH OF NORTHVALE
County of Bergen
State of New Jersey

ORDINANCE #1006-2019

AN ORDINANCE OF THE BOROUGH OF NORTHVALE AMENDING AND SUPPLEMENTING CHAPTER 200 OF THE CODE OF THE BOROUGH OF NORTHVALE TO ESTABLISH A BOROUGH-WIDE SET-ASIDE REQUIREMENT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the Borough Council of the Borough of Northvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201)* (“*Mt. Laurel IV*”) seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough’s obligation to provide for its fair share of the regional need of low and moderate income housing; and

WHEREAS, after a Fairness Hearing held on April 12, 2018, by Hon. Menelaos W. Toskos, J.S.C., approved a settlement agreement between the Borough of Northvale and the Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, pursuant to the requirements of the August 1, 2018 Order, the Borough of Northvale intends to supplement its Zoning Ordinance to include provisions addressing Northvale’s constitutional obligation to provide for its fair share of low and moderate income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Northvale Planning Board has adopted a Housing Element and Fair Share Plan dated July 22, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are required when certain types of applications are approved; and

WHEREAS, this Ordinance is intended to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Borough Council.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 200 of the Code of the Borough of Northvale, Article III, entitled

“Regulations and Restrictions”, Section 9, entitled “Provisions applicable to all zones”, is hereby amended and supplemented by adding a new subsection D, entitled “Borough-wide set-aside requirements”, said section to read as follows:

D. Borough-wide set-aside requirements.

- (1) Any property in the Borough of Northvale that receives a subdivision or site plan approval, zoning change, density variance, use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development at six units or more per acre, which multi-family residential development will yield five or more new dwelling units, shall provide a minimum affordable housing set-aside of:
 - (a) Fifteen (15%) percent if the affordable units will be for rent; or
 - (b) Twenty (20%) percent set-aside if the affordable units will be for sale.
- (2) This requirement shall not apply to residential development on sites that are zoned for inclusionary residential development as part of the Borough’s Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.
- (3) This requirement does not, and shall not be construed to, grant any property owner or developer the right to any rezoning, variance or other relief, nor does this requirement establish any obligation on the part of the Borough of Northvale to grant any such rezoning, variance or other relief.
- (4) A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.
- (5) All affordable units created pursuant to this Section shall be governed by the provisions of Chapter 200, “Zoning”, Article IX “Affordable Housing Regulations”.

Section 2. All other sections of this Ordinance shall remain in full force and effect.

Section 3. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 4. This Ordinance shall take effect immediately upon passage and publication as required by law.

PATRICK J. MARANA, MAYOR

ATTEST:

Wanda A. Worner, Borough Clerk

Introduced: August 14, 2019

Public Hearing: August 27, 2019

Adopted: August 27, 2019