



**BOROUGH OF FLORHAM PARK  
COUNTY OF MORRIS  
STATE OF NEW JERSEY**

**ORDINANCE # 18-20**

**AN ORDINANCE OF THE BOROUGH OF FLORHAM PARK, COUNTY OF MORRIS AND STATE OF NEW JERSEY AMENDING THE ZONING ORDINANCE OF THE BOROUGH OF FLORHAM PARK IN ORDER TO CREATE A MANDATORY AFFORDABLE HOUSING SET-ASIDE ON MULTI-FAMILY RESIDENTIAL DEVELOPMENT**

**WHEREAS**, it is the intent and purpose of the Municipal Land Use Law (the “MLUL”) to encourage municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals, and general welfare; and

**WHEREAS**, on or about July 6, 2017, the Borough of Florham Park (“Florham Park”) entered into a settlement agreement in an action captioned In the Matter of the Application of the Borough of Florham Park for A Determination of Mount Laurel Compliance (Docket No. MRS-L-1698-15), with Fair Share Housing Center, Alfieri-Florham Park, LLC, the Sisters of Charity of Saint Elizabeth, Palmont Associates, LLC, Ridgedale Plaza Associates, LLC, Braemar Homes, LLC, and B&B Associates, LLC, which outlines provisions for the inclusion of affordable housing on certain parcels located within the Borough of Florham Park, and also the imposition of a mandatory affordable housing set-aside for certain residential development, said settlement agreement having been approved by the Court in the above-captioned matter pursuant to the entry of an Order on Fairness and Preliminary Compliance; and

**WHEREAS**, the specific purpose of the mandatory set-aside ordinance is to ensure that multi-family residential development of three (3) acres or more, in any zone within Florham Park, proposed at a density of five (5) units per acre or greater, shall also produce affordable housing; and

**WHEREAS**, in furtherance of the aforementioned purposes of the MLUL, the implementation of the Court-approved settlement agreement, and in order to encourage the creation of affordable housing, the Florham Park Borough Council finds and declares that it would be beneficial to

establish a mandatory set-aside ordinance; and

**NOW, THEREFORE**, it is hereby duly ordained by the Borough Council of the Borough of Florham Park, County of Morris, State of New Jersey, that the following amendments and revisions are made to the General Ordinances of the Borough of Florham Park, Chapter 250, entitled “Zoning”:

**Section 1.** Chapter 250, Zoning, Article I, General Provisions, Section 7.4, Mandatory Set-Aside, is hereby created as follows.

§ 250-7.4, Mandatory Set-Aside.

A. If Florham Park 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, at a gross residential density of five (5) or more units per acre, the Borough shall require that an appropriate percentage of the residential units be set-aside for low- and moderate-income households, as defined by applicable State law or regulations. For inclusionary projects in which the low- and moderate-income units are to be offered for sale, the appropriate set-aside percentage is twenty percent (20%); for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is fifteen percent (15%).

(1) All affordable housing controls and standards are subject to the rules of the Council on Affordable Housing (“COAH”) or any subsequent state agency. The development, marketing and sale of the affordable units shall be pursuant to applicable state regulations and sections 250-84 through 250-90 of this Chapter, and any subsequent amendments thereto.

(2) This requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, of three (3) acres or more, in any zone within Florham Park, and proposed at a density of five (5) units per acre or greater, whether permitted by a zoning amendment, a variance granted by Florham Park’s Land Use Boards, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.

(3) This requirement shall not impose any obligation on a development, or the non-residential portion of a mixed-use development, that is subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:45(D)-8.1 et seq.

B. Nothing in this section precludes Florham Park from imposing an affordable housing set-aside requirement on a development that is not required to have an affordable housing

set-aside pursuant to this section, when such imposition is consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

- C. This affordable housing set-aside requirement shall not create any entitlement to a special dispensation or approval for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan.

**Section 2.** Severability. The provisions of this ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof.

**Section 3.** Repealer. All ordinances or parts of ordinances of the Borough of Florham Park which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** Prior actions. All actions of the Borough of Florham Park taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

**Section 5.** Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Florham Park introduced on September 20, 2018 and will be further considered for adoption after Public Hearing held on October 18, 2018 at 6:30 p.m. in the Municipal Building located at 111 Ridgedale Avenue.

INTRODUCED: September 20, 2018

ADOPTED:

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Mark Taylor, Mayor

ATTEST:

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Sheila A. Williams, R.M.C., Municipal Clerk

