

**BOROUGH OF SADDLE RIVER
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. 21-1007

**AN ORDINANCE AMENDING SECTION 65-22 “AFFORDABLE
HOUSING MANDATORY SET-ASIDE” OF THE SADDLE RIVER
BOROUGH CODE**

INTERPRETIVE STATEMENT

This Ordinance repeals the Borough’s existing regulations pertaining to affordable housing mandatory set-asides and replaces them with new regulations that ensure that all new multi-family residential developments of five (5) dwelling units or more in the Borough produces affordable housing at a set-aside rate of 20%; as will be set forth in the Borough Code in connection with the Borough’s Third Round Housing Element and Fair Share Plan

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Saddle River, County of Bergen, State of New Jersey, as follows:

Section 1. Chapter 65, Section 22, of the Code of the Borough of Saddle River Entitled “Affordable Housing Mandatory Set-Aside” is hereby repealed in its entirety and replaced with the following:

§65-22. Affordable housing mandatory set-aside.

- A. Purpose. This section is intended to ensure that any site that is developed with five (5) or more new multi-family residential dwelling units produces affordable housing at a set-aside rate of twenty percent (20%). This section shall apply except where inconsistent with applicable law.
- B. Mandatory Set-Aside Requirement.
 - (1) Any multi-family residential development, including the residential portion of a mixed-use project, that is approved to contain five (5) or more new dwelling units shall be required to set aside a minimum percentage of units for affordable housing.
 - (2) The minimum set-aside percentage shall be twenty percent (20%). Where the set-aside percentage results in a fractional unit, the total set-aside requirement shall be rounded upwards to the next whole number.
 - (3) Nothing in this section precludes the Borough or a Borough land use board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this section consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

- (4) This requirement does not create any entitlement for a property owner or applicant for subdivision or site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or rehabilitation plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- (5) This requirement does not apply to any sites or specific zones for which higher set-aside standards have been or will be established, as determined to be appropriate, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or rehabilitation plan.
- (6) If the Borough's Housing Element and Fair Share Plan, as amended from time to time, establishes set-aside standards for any specific sites or zones which are different from the set-aside standards set forth in this section, the set-asides established for those sites or zones in the Housing Element and Fair Share Plan shall govern.
- (7) Furthermore, this requirement shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings by five (5) or more.
- (8) 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.
- (9) All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
- (10) No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory set-aside requirements set forth in this section.
- (11) All affordable units to be produced pursuant to this section shall comply with the Borough's Affordable Housing Regulations at Chapter 65 of the Borough Code and the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.), as may be amended from time to time.

Section 2. Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

Section 4. Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Bergen.

Vanessa Nienhouse, RMC
Municipal Clerk

Mayor Albert J. Kurpis
Borough of Saddle River, New Jersey

Introduced: _____, 2021
Adopted: _____, 2021