

Ordinance No. 1865
Repealer and Mandatory Set-Aside Ordinance
Township of Wyckoff, Bergen County

AN ORDINANCE REPEALING ALL OF SECTIONS 186-51 THROUGH 186-59 OF CHAPTER 186, ZONING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AMENDING PORTIONS OF SECTIONS 186-48 AND 186-49, AND DELETING ALL OF SECTION 186-60.1, CURRENTLY ENTITLED PRODUCTION OF AFFORDABLE HOUSING AS SHARE OF ALL NEW RESIDENTIAL DEVELOPMENT, AND REPLACING IT IN ITS ENTIRETY WITH A NEW SECTION 186-60.1, TO BE ENTITLED MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS

BE IT ORDAINED by the Township Committee of the Township of Wyckoff, Bergen County, New Jersey, that the Code of the Township of Wyckoff is hereby amended to repeal Chapter 186, Sections 186-51, 186-52, 186-53, 186-54, 186-55, 186-56, 186-57, 186-58 and 186-59 in their entirety, as they are inconsistent with and superseded by current law and Chapters 77 and 113, Article II, as amended and supplemented; to amend portions of Sections 186-48 and 186-49 regulating affordable housing development to be consistent with applicable law; and to replace existing Section 186-60.1, currently containing growth share requirements, with new requirements for a mandatory set-aside of affordable housing under specific circumstances.

Section 1.

The following Sections of Chapter 186, Zoning, are hereby deleted as to their content and henceforth to be marked "(Reserved)" for future use for other purposes:

- 186-51. Rental units.
- 186-52. Regional contribution agreement (RCA) criteria.
- 186-53. Affordable housing requirements.
- 186-44. Housing administration.
- 186-55. Affordable housing trust fund.
- 186-56. Affirmative marketing.
- 186-57. Processing, exemption from fees.
- 186-58. Compliance.
- 186-59. Violation of rules.

Section 2.

Chapter 186, Zoning, Section 186-48, is hereby amended in its entirety to read as follows:

186-48. Purpose.

It is the intent of this Article X to provide zoning regulations that create a realistic opportunity for the construction of housing affordable to very low, low and moderate income households in the context of inclusionary residential developments that are zoned, consistent with an adopted Housing Element and Fair Share Plan, to allow a higher density of multi-family residential development than otherwise permitted in Wyckoff sufficient to subsidize the construction of such very low, low and moderate income housing; to provide reasonable, non-cost generating bulk standards for such development, consistent with the Residential Site Improvement Standards (N.J.A.C. 5:21); to provide overlay zoning to certain sites and areas of the Township that may someday redevelop so as to ensure that such sites will be redeveloped as inclusionary residential developments that will provide the opportunity for very low, low and moderate income housing to be constructed in the future; and to require all multi-family residential developments, including apartments, townhouses, condominiums and any other non-single family detached residential developments, that are approved in the future to be constructed at a certain minimum density, but that are not currently anticipated as part of an adopted Housing Element and Fair Share Plan, to provide a set-aside of very low, low and moderate income housing. All developments constructed pursuant to this Article shall also be subject to the requirements of Chapter 77, Affordable Housing, which requirements shall accompany, and, where there is a conflict, supersede the requirements of this Article X. Any other provision of any ordinance of the Township of Wyckoff that is in conflict with this Article X or impose higher standards not directly related to health and safety shall be inapplicable. The definitions set forth in Chapter 77 shall apply to this Article X.

Section 3.

Chapter 186, Zoning, Section 186-49, is hereby amended as follows:

A. Amend Section 186-49.A. (introductory paragraph) to delete references to the MF-AH3 and MF-AH4 Zones.

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B. Amend Section 186-49.A.(4)(b) to delete references to the MF-AH3 and MF-AH4 zones and the densities assigned to them.

C. Amend Section 186-49.A.(4)(j) to rewrite the introductory paragraph to read as follows:

- (j) Off-street parking requirement. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21 and the following requirements: Then delete the requirements at (j)[1], [2], and [3] and renumber (j)[4], [5], and [6] as (j)[1], [2], and [3].

D. Amend Section 186-49.A.(6) to delete (b) in its entirety.

E. Amend Section 186-49.A.(8) in its entirety as follows:

(8) Access.

- (a) All sites shall be developed with access as required by the RSIS. If a secondary means of access is required by the RSIS and is provided as an emergency access only, it shall be a minimum of 16 feet wide and be suitably improved to provide access in all weather conditions. Applicants proposing emergency access over privately owned land shall include documentation acceptable to the Planning Board Attorney that such access will remain available in perpetuity, will be adequately marked and protected from encroachment and shall be promptly cleared of snow.

- (b) The design of all streets shall be as provided by the RSIS.

F. Amend Section 186-49.B.(k) to rewrite the introductory paragraph to read as follows:

- (k) Off-street parking requirement. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21 and the following requirements:

Then delete the requirements at (k)[1] and [2], and renumber (k)[3], [4], and [5] as (k)[1], [2], and [3].

- G. Amend Section 186-49.B.(6) in its entirety as follows:
- (6) Access. All sites shall be developed with access as required by the RSIS. If a secondary means of access is required by the RSIS and is provided as an emergency access only, it shall be a minimum of 16 feet wide and be suitably improved to provide access in all weather conditions. Applicants proposing emergency access over privately owned land shall include documentation acceptable to the Planning Board Attorney that such access will remain available in perpetuity, will be adequately marked and protected from encroachment and shall be promptly cleared of snow.

Section 4.

Section 186-60.1 is hereby deleted in its entirety and renamed **Mandatory Affordable Housing Set-Aside Requirements**, as follows:

186-60.1. Mandatory Affordable Housing Set Aside Requirements.

A mandatory set-aside requirement of 20% (if the affordable units will be for sale) and 15% (if the affordable units will be for rent) shall be imposed on any multi-family residential development created through any Township or Board action involving a rezoning, use variance, density variance, redevelopment plan or rehabilitation plan permitting redevelopment that provides an incentive in the form of an increase in the density on a site, which density is at or above six (6) units per acre and results in the construction or creation of five or more new dwelling units over the number of units previously allowed. This requirement does not affect the requirements for production of affordable housing on sites that are zoned for inclusionary development as a result of an adopted Housing Element and Fair Share Plan, which sites shall be developed as provided under the zoning or overlay zoning enacted for those sites. **This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Wyckoff Township to grant such rezoning, variance or other relief, nor does it suggest that a density of six (6) units per acre provides a sufficient financial incentive for inclusionary residential development in all cases.** A property shall not be permitted to be subdivided so as to avoid meeting this requirement. All affordable units created by this mechanism shall be family affordable housing units (i.e., non-age-restricted).

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.