

BOROUGH OF BERGENFIELD  
BERGEN COUNTY, NEW JERSEY

ORDINANCE NO. 22-2592

**AN ORDINANCE AMENDING SPECIFIED PORTIONS OF THE EXISTING  
AFFORDABLE HOUSING ORDINANCE OF THE BOROUGH OF BERGENFIELD  
TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE  
UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING  
COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING  
OBLIGATIONS**

BE IT ORDAINED by the governing body of the Borough of Bergenfield, Bergen County, New Jersey, that the Code of the Borough of Bergenfield is hereby replaced to include provisions addressing Bergenfield'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. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

Section 1 Article VIID Affordable Housing is and shall be amended as detailed herein:

- A. E. Inclusionary Zoning is amended in the following particulars only:  
Paragraph B is hereby amended deleted in its entirety and replaced with the following provisions:

Any and every townhouse complex, garden apartment complex, mixed-use development or other multiple family residential development including a subdivision consisting of single-family-dwellings approved by means of a rezoning, a use variance application or redevelopment designation, containing five (5) or more additional dwelling units approved subsequent to the Superior Court sponsored Fairness Hearing shall comply with the following:

1. A minimum of fifteen (15) percent of the total number of units shall be set aside as affordable housing units if the development is approved as a rental development. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional affordable unit shall be required. If the calculation of the total number of affordable units required yields a fraction greater than 0.5 units, then the obligation shall be rounded up and the additional affordable units shall be provided.
2. A minimum of twenty (20) percent of the total number of units shall be set aside as affordable housing units if the development is approved as a for-sale housing project. If the calculation of the total number of affordable

units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional affordable unit shall be required. If the calculation of the total number of affordable units required yields a fraction greater than 0.5 units, then the obligation shall be rounded up and the additional affordable units shall be provided.

3. At least half of all affordable units shall be affordable to low-income households and the remainder may be reserved for moderate-income households. No less than thirteen (13) percent of the affordable units in each bedroom configuration are to be reserved for very low-income households.

Section 2 Paragraph F New Construction is and shall be amended in the following particulars only:

Paragraph A. 1. Is and shall be amended to delete the second sentence and replace same with the following sentence: “No less than thirteen (13) percent of the affordable units in each bedroom configuration shall be reserved for very low-income households (affordable to a household earning 30 percent or less of median income).”

Section 3 Paragraph T Affirmative Marketing Requirements shall be amended in the following particulars only:

Subparagraph B shall be and is hereby amended through the inclusion of the New Jersey Housing Resource Center to the list of agencies and organization to which notification shall be provided of all affordable housing opportunities available in Bergenfield for inclusion of such information on the Housing Resource Center’s website.

Section 4 The final three paragraphs of the Ordinance’s BE IT ORDAINED section are herein deleted. The following new section, “W”, is added to the ordinance. This section to be added includes the following.

**W. Monitoring of Bergenfield’s Compliance Efforts**

On the first anniversary of the entry of the Order granting Bergenfield a Final Judgment of Compliance and Repose in IMO Application of the Borough of Bergenfield, Docket No.: BER-L-6715-15, and every anniversary thereafter through the end of the Repose period, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

On the first anniversary of the entry of the Order granting Bergenfield a Final Judgment of Compliance and Repose in IMO Application of the Borough of Bergenfield, Docket No.: BER-L-6715-15, and every anniversary thereafter through the end of the Repose period, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and

Fair Share Housing Center. For the midpoint realistic opportunity review due on July 1, 2022, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting Bergenfield a Final Judgment of Compliance and Repose in IMO Application of the Borough of Bergenfield, Docket No.: BER-L-6715-15, and every third year thereafter, the Borough will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low-income housing obligation.

#### Section 5

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

#### Section 6

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.

#### Section 7

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

**NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced at a meeting of the Borough of Bergenfield on the 1<sup>st</sup> day of February, 2022 and passed on first reading, and the same was ordered for final passage at a meeting of the Council to be held at the Municipal Building in the Borough of Bergenfield, Bergen County, New Jersey, on the 15<sup>th</sup> day of March, 2022 at 8 p.m., at which time and place all persons interested will be given an opportunity to be heard concerning such Ordinance.**

**Marie Quinones**

**Borough Clerk**