

**ORDINANCE NO. 47-2019**

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION BY REPEALING ARTICLE XVIII A RELATED TO THE TOWNSHIP'S GROWTH SHARE OBLIGATION FOR AFFORDABLE HOUSING AND ESTABLISHING IN ITS PLACE A NEW ARTICLE XVIII A ENTITLED "AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS" WITH NEW REGULATIONS**

**INTERPRETIVE STATEMENT**

This Ordinance amends the Township's land use ordinances by establishing new regulations to ensure that any site that is developed with five (5) or more new multi-family or single-family attached dwelling units produces affordable housing at a set-aside rate of 20% for for-sale units and 15% for rental units; which regulations will be set forth in the Township Code in connection with the Township's Third Round Housing Element and Fair Share Plan consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Township's affordable housing obligations.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Hanover, County of Morris, State of New Jersey, as follows:

**Section 1.** Chapter 166, Article XVIII A, of the Code of the Township of Hanover, entitled "Requirements for Developments That Increase the Township's Growth Share Obligation for Affordable Housing," is hereby deleted in its entirety and replaced with the following:

**Article XVIII A Affordable Housing Set-Aside Requirements**

**§166-108.1 Affordable housing set-aside requirements.**

- A. Purpose. This section is intended to ensure that any site that is developed with five (5) or more new multi-family or single-family attached dwelling units produces affordable housing at a set-aside rate of twenty percent (20%) for affordable for-sale units and at a set-aside rate of fifteen percent (15%) for affordable rental units. This section shall apply except where inconsistent with applicable law.
- B. Mandatory Set-Aside Requirement.
  - (1) Any multi-family or single-family attached 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) For inclusionary projects in which the low and moderate units are to be offered for sale, the minimum set-aside percentage shall be twenty percent (20%); for projects in which the low and moderate income units are to be offered for rent, the minimum set-aside percentage shall be fifteen percent (15%). 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 Township or a Township 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, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or rehabilitation plan.
- (6) If the Township's Settlement Agreement with Fair Share Housing Center ("FSHC") last executed on March 7, 2019, or the Township's 2019 Housing Element and Fair Share Plan, 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 Settlement Agreement or 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) All affordable units to be produced pursuant to this section shall comply with the Township's Affordable Housing Ordinance at Chapter 72 of the Township Code and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.), as may be amended from time to time, and any applicable order of the Court, including a Judgment of Compliance and Repose Order.

**Section 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 3.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Hanover, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised



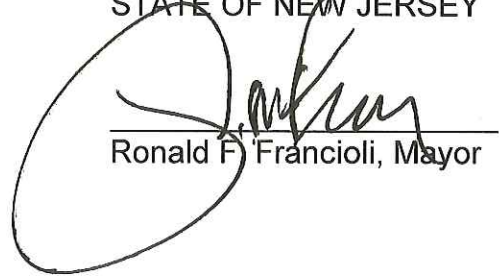
General Ordinances of the Township of Hanover are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 4.** This ordinance shall take effect in accordance with law.

TOWNSHIP COMMITTEE  
TOWNSHIP OF HANOVER  
COUNTY OF MORRIS  
STATE OF NEW JERSEY

ATTEST:

  
Joseph A. Giorgio, Township Clerk

  
Ronald F. Francioli, Mayor

DATE OF INTRODUCTION: October 10, 2019  
DATE OF ADOPTION: November 14, 2019