

**CITY OF ENGLEWOOD
BERGEN COUNTY, NEW JERSEY
ORDINANCE 23-22**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 250, TITLED
“LAND USE” CREATING AFFORDABLE HOUSING OVERLAY ZONES**

WHEREAS, the New Jersey Supreme Court issued its decision In re: Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) on March 10, 2015 stripping COAH of its administrative duties relating to the affordable housing certification process and thereby created a judicial process by which a municipality can file a declaratory judgement action with the court seeking a judicial determination that their housing element and fair share plan satisfied their third round affordable housing obligation; and

WHEREAS, pursuant to the New Jersey Supreme Court’s March 10, 2015 decision and to preserve immunity from developer remedy lawsuits, the City filed a declaratory judgment action (DJ Action) entitled In the Matter of the Application of the City of Englewood for Judgement of Compliance and Repose, County of Bergen, Docket Number BER-L- 4069-19 with the Superior Court; and

WHEREAS, by way of negotiations with the Fair Share Housing Center in the DJ Action the City has arrived at a Settlement Agreement (Settlement) with Fair Share Housing Center concerning the City’s obligation which was approved by the Superior Court after a fairness hearing held on January 10, 2023 and in an order entered by the Court and filed on January 20, 2023; and

WHEREAS, the City is required to now take certain actions including the adoption of ordinances to implement the settlement agreement with Fair Share Housing Center;

BE IT ORDAINED by the Governing Body of the City of Englewood, Bergen County, New Jersey that it does hereby amend, and supplement Chapter 250 of the City Code as follows:

SECTION 1. Article IX, §250-54 entitled Establishment of districts, is hereby amended to add the following new overlay zones entitled Affordable Housing Overlay Zones:

Affordable Housing Overlay Zone 1	AHO-1
Affordable Housing Overlay Zone 2	AHO-2
Affordable Housing Overlay Zone 3	AHO-3

SECTION 2. Article IX, §250-55 entitled Zoning Map is hereby amended to add Affordable Housing Overlay Zones as follows:

Block	Lot(s)	Affordable Housing Overlay Designation (AHO)
305	15 through 25	AHO-1
507	1 through 12 and 24.1	AHO-1
701	18.1	AHO-1
702	1 through 5	AHO-1

704	15.01, 16, 17, 18	AHO-1
704	11	AHO-1
705	4 through 10	AHO-1
707	1 and 8 through 12	AHO-1
709	5.01, 5.02, 9, 10, 11, 12, 13.1, 13.2, 14	AHO-1
710	1, 2, 4, 5, 15, 16, 17, 18, 19, 20, 21.1, 22.1	AHO-1
805	7 through 17.1	AHO-1
806	24 through 28	AHO-1
809	1 through 21	AHO-1
810	2.1 through 5	AHO-2
903	2 through 10	AHO-1
904	1 through 5.1	AHO-1
905	2, 4, 5	AHO-2
910	3 through 6	AHO-1
913	1 through 16	AHO-2
1006	19 through 23	AHO-2
1101	34 and 35	AHO-2
1102	22 and 23	AHO-2
1103	10 through 16	AHO-2
1105	1 and 11 through 15	AHO-2
1203	2, 3.1, 4.1, 5, 8	AHO-2
1204	15 through 18	AHO-2
1207	4, 5, 6.2, 6.3, 9.1, 10, 11	AHO-2
1208	6, 8.1, 9	AHO-2
1209	1.1, 15.1, 16.1, 17.1	AHO-2
1210	15 through 20	AHO-1
1601	22 through 27	AHO-1
1602	13 and 14	AHO-1
1902	5.1,7,8	AHO-1
2303	6 through 30	AHO-3
2304	9 through 35	AHO-3
2310	2.2 through 7	AHO-1
2311	1.1	AHO-1
2405	1.2 and 1.3	AHO-1
2406	1.2 and 1.3	AHO-1
2407	2	AHO-1
	7 and part of 7 including Block 2801, Lot 1 plus a portion of the right-of-way per 2017 Area In Need of Investigation	AHO-2
2407	Report	AHO-1
2409	Part of 2	AHO-1
2802	12 through 19	AHO-1
2902	4 through 21	AHO-1

2903	1 through 22	AHO-1
2904	1 through 11, part of 12, part of 18	AHO-1
2905	1, 2, 16 through 30	AHO-1
3009	8 through 19 and part of 7	AHO-1

SECTION 3. Article XI entitled District Regulations, is hereby amended to add the following new affordable housing overlay zone regulations:

§ 250-78.3 Affordable Housing Overlay Zones

A. Purpose. The purpose of this chapter is to establish overlay zones so as to provide opportunity to develop multifamily residential housing units which are affordable to low- and moderate-income families consistent with the City's constitutional obligation to provide affordable housing pursuant to the New Jersey Supreme Court's Mount Laurel decisions. Development is to be limited in height, density, and development coverages, with adequate space provisions comparable with the suburban character of the City of Englewood. Where a proposed use is permitted in both the underlying zone district and overlay zone, the development regulations of the underlying zone district shall apply, unless the developer elects to develop in accordance with the AHO zone standards as set forth herein.

B. Permitted Principal uses. Within the AHO Districts multifamily and single-family attached townhouse residential development shall be permitted subject to the specific conditions and limitations as set forth in this chapter. The following definitions shall apply:

- (1) **Multifamily** shall mean a building or portion thereof, designed exclusively for occupancy containing three or more units either for ownership or rent;
- (2) **Townhouse** shall mean a self-contained, one-family dwelling unit, attached to one or more other one-family dwelling units, having direct access to the outside, including stacked units sharing a common exterior entrance and interior hallway for access to the stacked unit.

C. Required affordable housing set-aside. Any residential development within the AHO zones shall be required to provide a minimum of 20% of the total number of units on-site to be constructed as affordable to low- and moderate-income eligible families. In instances where an affordable unit results in a fractional requirement, consideration may be given towards providing an in lieu of payment for the fractional portion of the required set aside. Any such affordable units shall be subject to the regulations as set forth in Article XVII entitled, AFFORDABLE HOUSING.

D. Permitted Accessory uses. Within the AHO Districts, the following accessory uses shall be permitted:

- (1) Laundry rooms, recreational rooms and other similar such accessory uses which are for the common benefit of all residents of the multifamily development.
- (2) Outdoor recreational facilities including but not limited to a swimming pools, tennis courts, basketball courts and playground equipment.

(3) Fences, garden walls and other landscape features, including decorative pools, fountains, statuary, terraces, steps, benches.

E. Minimum lot size requirements. The minimum lot size within the AHO zones shall be not less than 22,000 square feet.

F. Dwelling unit density. Dwelling density shall not exceed:

- (1) AHO-1 District: 15 dwelling units per acre.
- (2) AHO-2 District: 35 dwelling units per acre.
- (3) AHO-3 District: 50 dwelling units per acre.

G. Lot coverage. The sum of the area of all principal and accessory buildings shall not exceed:

- (1) For townhouse development, the sum of the area of all principal and accessory buildings shall not exceed 35%.
- (2) For multifamily development, the sum of all principal and accessory buildings shall not exceed 40%.

H. Impervious coverage. The maximum impervious coverage for development within the AHO zones shall not exceed 70% of the lot area for townhouse development and 80% for multifamily development.

I. Yard requirements.

- (1) The following minimum yard requirements shall apply:

<u>AHO Zone</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
AHO-1	30	35	40
AHO-2	0-10	6	10
AHO-3	0-10	6	10

- (2) In the case of a corner lot, each yard which abuts a street shall be considered a front yard, and the lot shall comply with front yard setback requirements and all other front yard requirements and limitations set out in this chapter respecting each of such streets.

J. Open space.

- (1) Any premises used for multifamily dwelling purposes shall contain a minimum of 20% of the lot area as open space.

- (2) Any premises used for townhouse development, shall contain a minimum of 30% of the lot area as open space.
- (3) Required open space shall be easily accessible to the occupants of all of the dwelling units on the premises, except that, with respect to townhouse development, open space, which is allocated to individual dwelling units, as hereinabove provided, shall be easily accessible to the occupants of the units to which such space is allocated.
- (4) No portion of any required front yard or any required planting area shall be used for required open space.
- (5) No portion of any required open space shall be used for driveways or parking spaces.
- (6) No structure of any kind shall be permitted within any required open space, except for swimming pools, outdoor sport structures or playgrounds, or other common outdoor amenities such as courtyards, provided that not more than 25% of any structure shall be covered by a roof.
- (7) Required open space shall be subject to site plan review as to design and layout, shall be attractively landscaped and shall not exceed a grade of 5% and shall be of a design to accommodate the needs of the occupants or contemplated occupants of the dwelling units it is designed to serve.
- (8) Roof space on accessory buildings or structures, including roof space on parking facilities, may be used as required open space, provided that:
 - (a) Such space shall be accessible to occupants of the dwelling units it is designed to serve, by pedestrian means of access other than stairs.
 - (b) Such space shall, on at least one side, be at the same grade as the land abutting it.
 - (c) Such space shall, on all sides, be not more than 12 feet above the grade of the land abutting it.
 - (d) Such space shall contain railings, fencing or similar treatment to make it safe and suitable for recreational use.

K. Buffer requirements. A landscaped buffer area shall be required and consist of planted materials intended to provide an attractive visual screen within all of the following described areas adjacent to each side lot line and the rear lot line of each lot:

(1) When adjacent to property used or zoned for residential purposes: 25 feet.

(2) When adjacent to property used for nonresidence purposes: 15 feet.

L. Regulations concerning yards, planting areas, fences, etc.

(1) Within a required front yard, no accessory building or structure shall be permitted, except for walls or fences not more than 4 1/2 feet high.

(2) No paved terrace, steps, walk or similar improvement (other than those used for access to the premises or to a building on the premises) shall be constructed or located within the required planting areas required by Subsection J, except for fences or walls not exceeding 6 1/2 feet in height, and statuary, ornamental benches and similar ornamental devices.

(3) Notwithstanding any of the foregoing restrictions:

(a) Cornices and cantilevered roofs may project into any required yard a distance of not more than 24 inches.

(b) Belt courses, windowsills and similar ornamental features may project into any required yard a distance of not more than 12 inches, and chimneys may so project a distance of not more than 18 inches.

(c) A required open fire escape or fireproof stairway may project into any required yard a distance of not more than eight feet.

(4) Chain-link material used for any fence within a multiple-residence district shall be of dark-colored material, and the posts and other framework forming part of such fence shall be the same color as the chain-link material.

(5) Accessory buildings and structures may be erected in side or rear yards, provided that they do not encroach on any required planting area.

(6) Any fence which is designed or constructed so as to have a front side and a rear side shall be erected so that the front side faces abutting streets or abutting premises and the rear side faces the premises on which the fence is erected.

(7) Except as otherwise permitted by this chapter, no fence or wall in a multiple-residence district shall exceed 6 1/2 feet in height.

M. Height Limitations.

(1) The following maximum height requirements shall apply:

<u>AHO Zone</u>	<u>Feet</u>	<u>Stories</u>
AHO-1	40	4
AHO-2	48	4
AHO-3	60	5

- (2) No accessory building shall exceed a height of 12 feet.
- (3) Chimneys, flues, towers, bulkheads, spires, and similar decorative features may exceed the aforesaid height limitations if the total area of all such features on any single building does not exceed 20% of the area of the roof of such building.
- (4) Measurement of building height.
 - (a) Building height shall be measured as the vertical distance between the average finished grade and the highest point of a building or structure. The highest point shall be the coping of a flat roof without a parapet, the midpoint of the parapet on a flat roof, the deckline of a mansard roof, or the midpoint between the eaves and highest ridge of a gable, gambrel, or hipped roof.
 - (b) Elevator shafts, solar collectors, and mechanical equipment necessary for building functions and maintenance shall not be included in the calculation of the maximum building height, provided the shafts and equipment are screened or integrated into architectural rooflines so as not to be discernable from the public street level.
 - (c) No roof structure shall be allowed for the purpose of providing additional interior floor space.

N. Distances between buildings; windows.

- (1) No buildings on any single lot shall be located closer to each other than the following distances:
 - (a) Between two accessory buildings: 10 feet.
 - (b) Between a principal building, other than a one-family dwelling, and a one-story accessory building: 20 feet.
 - (c) Between any two other buildings: 25 feet.
- (2) No window, other than a bathroom or kitchen window, shall be located within 25 feet of any other window on any other building or on the same building if one such window shall

be visible from the other, unless the planes of the walls in which such windows are located intersect (or would intersect if extended) at an angle of 90° or more.

O. Architectural Design Standards

(1) Façade Design.

- (a) Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
- (b) Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
 - (i) Each vertical articulation shall be no greater than thirty (30) feet apart.
 - (ii) Each vertical articulation shall be a minimum of one (1) foot deep.
 - (iii) Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.
 - (iv) Building walls with expansive blank walls are prohibited on any building façade regardless of its orientation.

(2) Materials. Exterior building materials shall be classified as either primary, secondary or accent materials. The facade shall be designed in accordance with the following:

- (a) The primary material shall cover at least sixty percent (60%) of the facade of the building.
- (b) Secondary materials shall cover not more than forty percent (40%) of the facade.

(3) Rooflines. Rooflines are not to be flat but pitched. Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

(4) All ground level retail and service uses that face a public street shall have clear glass on at least 60% of their facades between two and eight feet above grade.

(5) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

- (6) All buildings should relate harmoniously to the site's natural features and existing buildings, as well as other structures in the vicinity that have a visual relationship and orientation to the proposed buildings. Such features should be incorporated into the design of building form and mass, and assist in the determination of building orientation in order to preserve visual access to natural and man-made community focal points.
- (7) Buildings should be broken into segments having vertical orientation. A visual or physical break shall be required where buildings have a front wall that exceeds 125 feet in length, and in such case a visual or physical break shall be provided minimally every 50 linear feet.
- (8) Buildings with expansive blank walls are prohibited. Appropriate facade treatments should be imposed to ensure that such buildings and facades are integrated with the rest of the development and the entirety of the building.
- (9) New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.
- (10) Cornices, awnings, canopies, flagpoles, signage, and other ornamental features should be encouraged as a means to enhance the visual environment. Such features may be permitted to project over pedestrian sidewalks, with a minimum vertical clearance of 8.5 feet, to within two feet of a curb.
- (11) A "human scale" of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.
- (12) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and framing should be utilized to reinforce verticality.
- (13) Rooftop utilities including HVAC units shall be shielded from public view with appropriate screening that complements the character of the building's architecture.

P. Landscape Requirements.

- (1) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. The impact of any proposed landscaping plan at various time intervals shall be considered. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity; root

pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.

- (2) Landscaped islands shall be at least six feet in width to accommodate plantings.
- (3) A minimum 10-foot landscaped buffer consisting of a dense evergreen mass shall be planted along the perimeter of the property to form a screen from adjoining properties.
- (4) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.
- (5) All areas that are not improved with buildings, structures and other man-made improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities.
- (6) Shade trees shall be a minimum 2.5 to 3-inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.
 - (1) Ornamental Trees shall be installed at a minimum size of 6 feet in height.
 - (2) Shrubs shall be planted at a minimum size of 18 to 24 inches.
 - (3) All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.
 - (4) Irrigation shall be provided for all landscape and lawn areas in a manner appropriate for the specific plant species.
 - (5) A growth guarantee of two growing seasons shall be provided and all dead or dying plants shall be replaced by the applicant, as required, to maintain the integrity of the site plan.
- (7) Landscape Plantings. All plant materials are to be indigenous to the region herein defined as the Bergen County region but in no event shall the plant materials be comprised of less than 50 percent indigenous species.

Q. Lighting.

- (1) All lighting fixtures and foot-candle standards for parking areas and recreation facilities shall be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA).

- (2) A lighting plan prepared by a qualified professional shall be provided with site plan applications.
- (3) The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the Borough Engineer and Land Use Board.
- (4) All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated during the hours of operation that occur after sunset.
- (5) Lighting shall be shielded so as to prevent glare from adversely impacting surrounding properties.

R. Signage. Signage shall be permitted subject to the requirements of §250-106.

SECTION 4. The City Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Bergen County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The City Clerk shall execute any necessary Proofs of Service of the notices required by this section, and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

SECTION 5. After introduction, the City Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the City Council, within thirty-five (35) days after referral, a report including identification of any provision in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 6. If any paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 7. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the City Tax Assessor as required by N.J.S.A. 40:49-2.1.
in accordance with the laws of the State of New Jersey.

ORDINANCE #23-22

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 250, TITLED
“LAND USE” CREATING AFFORDABLE HOUSING OVERLAY ZONES**

RECORD OF VOTE

FIRST READING DATE: June 27, 2023

COUNCIL	MOTION	VOTE
Cobb		Y
Maron		Y
Rosenzweig	X	Y
Wilson		Y
Wisotsky		Y

DATE PUBLISHED IN THE RECORD: July 13, 2023

DATES PUBLIC HEARINGS HELD: August 8, 2023

DATE SECOND READING HELD: August 8, 2023

COUNCIL	MOTION	OPEN	MOTION	CLOSE	MOTION	ADOPT
Cobb						
Maron						
Rosenzweig						
Wilson						
Wisotsky						

Y=YES

N=OPPOSED

A=ABSTAINED

AB=ABSENT

PRESENTED TO MAYOR:

APPROVED _____

REJECTED _____ (VETO)

SIGNED _____

MAYOR MICHAEL WILDES

I do hereby certify that the foregoing is a true and exact copy of an Ordinance adopted and approved by the Mayor and Council of the City of Englewood.

Yancy Wazirmas, RMC
City Clerk

CITY OF ENGLEWOOD
NOTICE OF ORDINANCE INTRODUCTION/PUBLIC HEARING

ORDINANCE 23-22

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 250, TITLED
“LAND USE” CREATING AFFORDABLE HOUSING OVERLAY ZONES**

NOTICE IS HEREBY GIVEN that the above ordinance was introduced and passed on first reading at a Regular Meeting of the City Council of the City of Englewood on June 27, 2023 and that said ordinance will be further considered for final passage at a meeting of the City Council to be held at the Municipal Court Room, 73 S. Van Brunt Street, Englewood, Bergen County, New Jersey, on August 8, 2023 at 7:30 pm or as soon thereafter as the matter can be reached, at which time and place all persons who may be interested will be given an opportunity to be heard concerning said ordinance. A copy of the ordinance in full may be requested at no charge from the City Clerk’s Office during regular business hours and can also be found on the City’s website at www.cityofenglewood.org.

The purpose of this Ordinance is to amend and supplement Chapter 250, Land Use, of the Code of the City of Englewood, to establish new affordable housing overlay zones for the following properties that will encourage the production of very-low, low-, and moderate-income housing units:

Block	Lot(s)	Affordable Housing Overlay Designation (AHO)
305	15 through 25	AHO-1
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701	18.1	AHO-1
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910	3 through 6	AHO-1
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1006	19 through 23	AHO-2
1101	34 and 35	AHO-2
1102	22 and 23	AHO-2
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1105	1 and 11 through 15	AHO-2
1203	2, 3.1, 4.1, 5, 8	AHO-2
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Yancy Wazirmas, RMC
City Clerk