

**CITY OF ENGLEWOOD
BERGEN COUNTY, NEW JERSEY**

ORDINANCE #25-26

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 250, ARTICLE XVII,
AFFORDABLE HOUSING, § 250-124 MANDATORY SET-ASIDE**

WHEREAS, the Fair Housing Act has been amended by the legislature to create a new process for the approval of municipal affordable housing plans for the Fourth Round pursuant to the New Jersey Supreme Court's Mount Laurel doctrine; and

WHEREAS, the City of Englewood has filed a declaratory judgement action seeking a certificate of compliance from the newly created Program for the Fourth Round certifying the City's Housing Element and Fair Share Plan satisfies the City's constitutional obligation to provide for affordable housing; and

WHEREAS, the City has determined to amend the City's affordable housing ordinance to modify the required mandatory affordable housing set-aside to apply throughout the City for residential development of five units or more in order to expand affordable housing opportunities from multifamily developments that otherwise would not be required to provide for an affordable housing set-aside;

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

Note: New language in ***bold italics***.

SECTION 1. Article XVII, § 250-124, Affordable Housing Mandatory Set-Aside is hereby to read as follows:

§ 250-124 AFFORDABLE HOUSING MANDATORY SET-ASIDE.

- A. ***Purpose.*** *This section is intended to ensure that any new multifamily and single-family attached residential development, which consists of five (5) or more new residential units, including the residential portion of a mixed use development, (i) that is permissible as of right by zoning ordinance; (ii) that becomes permissible by the granting of a use variance or a density variance increasing the permissible density; (iii) that results from the adoption of a redevelopment plan or amendment to a redevelopment plan; or (iv) that results from the rezoning of the property, shall provide a twenty percent (20%) set aside of affordable units for both sales and rental projects. This chapter shall apply except where inconsistent with applicable law.*
- B. Affordable Housing Set-Aside. ***Beginning with the effective date of this ordinance a*** A mandatory affordable housing set-aside requirement shall apply to any new multifamily and

single-family attached residential development, which consists of five (5) or more new residential units, *including the residential portion of a mixed use development, (i) that is permissible as of right by zoning ordinance; (ii) that becomes permissible by the granting of a use variance or a density variance increasing the permissible density; (iii) that results from the adoption of a redevelopment plan or amendment to a redevelopment plan; or (iv) that results from the rezoning of the property.* The set-aside shall be twenty percent (20%) for both sales and rental projects.

1. All affordable housing controls and standards are subject to the ***regulations promulgated under the Fair Housing Act (N.J.S.A. 52:27D-301 et seq)*** or as approved by the Court. The development, marketing and sale of the affordable units shall be pursuant to applicable state regulations and the applicable provisions of this chapter, and any subsequent amendments thereto.
2. This requirement shall not impose any obligation on a development, or the nonresidential portion of a mixed-use development, that is subject to the Statewide Non-Residential Development Fee Act, **N.J.S.A. 40:55D-8.1 et seq.**
3. All subdivision and site plan approvals of qualifying developments shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold. The approving authority may impose any reasonable conditions to ensure such compliance.
5. The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.

C. This section shall not apply to any sites or specific zones otherwise identified in the City's Settlement Agreement with FSHC dated November 1, 2022, approved by Court Order dated January 20, 2023, or in the City's Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

D. The requirements of this section shall not apply to residential expansions, additions, renovations, replacements, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more.

E. In the event that the inclusionary set-aside percentage (20%) of the total number of residential units does not result in a full integer, the developer shall round the set- aside upward to construct a whole additional affordable unit.

SECTION 2. 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 3. 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 4. 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 5. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

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 4, 2025 and that said ordinance will be further considered for final passage at a meeting of the City Council to be held via Zoom on July 8, 2025 at 8:00 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. Members of the public who wish to participate in the meeting may do so by calling or clicking on the link below at 8:00PM or by dialing 646-558-8656. Link:

<https://zoom.us/j/98505681398?pwd=7EpkXQgOeuPPp4Qqdngfltc1eRmhVI.1>;

Webinar ID: 985 0568 1398; Passcode: 287171

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.

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RECORD OF VOTE

FIRST READING DATE: June 4, 2025

| COUNCIL | MOTION | VOTE |
|------------|--------|------|
| David | | Y |
| Rosenzweig | X | Y |
| Tokayer | | Y |
| Wilson | | Y |
| Wisotsky | | Y |

DATE PUBLISHED IN THE RECORD: June 25, 2025

DATES PUBLIC HEARINGS HELD: July 8, 2025

DATE SECOND READING HELD: July 8, 2025

| COUNCIL | MOTION | OPEN | MOTION | CLOSE | MOTION | ADOPT |
|------------|--------|------|--------|-------|--------|-------|
| David | | | | | | |
| Rosenzweig | | | | | | |
| Tokayer | | | | | | |
| Wilson | | | | | | |
| Wisotsky | | | | | | |

Y=YES

N=OPPOSED

A=ABSTAINED

AB=ABSENT

PRESENTED TO MAYOR:

APPROVED _____

REJECTED _____ (VETO) _____

MAYOR MICHAEL WILDES

DATE SIGNED: _____

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