

CITY OF ENGLEWOOD
ORDINANCE NO. 22-01

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE
CITY OF ENGLEWOOD BY THE ADDITION OF SECTION 250-159
ENTITLED “MANDATORY AFFORDABLE HOUSING SET-ASIDE”**

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities, like the City of Englewood (“City”), to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans (“HEFSPs”) as being constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, on May 30, 2019, the City filed a declaratory judgment action with the New Jersey Superior Court seeking to declare its HEFSP as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation; and

WHEREAS, one of the mechanisms that can be utilized to satisfy municipal affordable housing obligations is the adoption of a mandatory affordable housing set-aside ordinance which requires that all new multi-family residential development of 5 or more units that becomes permissible as of right, through a use variance, density variance, rezoning or redevelopment plan provide an affordable housing set-aside; and

WHEREAS, the City desires to amend and supplement the Zoning Ordinance of the City of Englewood to adopt such a mandatory affordable housing set-aside ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Englewood, County of Bergen, State of New Jersey as follows:

SECTION ONE. The Zoning Ordinance of the City of Englewood is hereby amended and supplemented with by the addition of the following:

Section One. Mandatory Affordable Housing Set-Aside.

- A. Except as otherwise regulated in this chapter, any development application proposing five (5) or more new dwelling units shall be required to set aside twenty percent (20%) if said units are for-sale, and fifteen percent (15%) if said units are for-rent, for affordable housing.
- B. This requirement shall apply for all new multi-family residential development of five (5) or more units that become permissible as of right, through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or new redevelopment plan.
- C. 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 the City of Englewood to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.

SECTION TWO. All Ordinances of the City of Englewood which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION THREE. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION FOUR. This Ordinance shall take effect as provided by law.

C E R T I F I C A T I O N

I, Yancy Wazirmas, City Clerk of the City of Englewood, County of Bergen, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the City held on _____ and adopted by the Governing Body at a regular meeting of the City held on _____.

Yancy Wazirmas, City Clerk

ORDINANCE #22-01

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ENGLEWOOD BY THE ADDITION OF SECTION 250-159 ENTITLED "MANDATORY AFFORDABLE HOUSING SET-ASIDE"

RECORD OF VOTE

FIRST READING DATE: February 15, 2022

COUNCIL	MOTION	VOTE
Cobb		Y
Cohen		Y
Hamer	X	Y
Maron		Y
Rosenzweig		Y

DATE PUBLISHED IN THE RECORD:

DATES PUBLIC HEARINGS HELD: March 15, 2022

DATE SECOND READING HELD: March 15, 2022

COUNCIL	MOTION	OPEN	MOTION	CLOSE	MOTION	ADOPT
Cobb						
Cohen						
Hamer						
Maron						
Rosenzweig						

Y=YES

N=OPPOSED

A=ABSTAINED

AB=ABSENT

PRESENTED TO MAYOR:

APPROVED _____

REJECTED _____ (VETO) _____ MAYOR MICHAEL WILDES

DATE: _____

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

LEGAL NOTICE

CITY OF ENGLEWOOD, BERGEN COUNTY

ORDINANCE NO. _____

Notice is hereby given that an Ordinance entitled "An Ordinance Amending the Zoning Ordinance of the City of Englewood by the Addition of Section 250-159 Entitled 'Mandatory Affordable Housing Set-Aside'" was submitted in writing at a regular meeting of the Mayor and Council of the City of Englewood, County of Bergen, State of New Jersey, held on _____, 2022 and was introduced, read by title and passed on first reading. A Statement of Purpose of the Ordinance is contained below. The governing body of the City of Englewood will further consider the ordinance for second reading and final passage thereof at their regular meeting to be held on _____, 2022 at 7:30 p.m. prevailing time, via Zoom and telephonically in said City, at which time and place a public hearing will be held thereon by the governing body and all parties in interest and citizens shall have an opportunity to be heard concerning said ordinance.

STATEMENT OF PURPOSE OF ORDINANCE

The purpose of the above Ordinance is to amend and supplement the Zoning Ordinance of the City of Englewood by the addition of Section 250-159, entitled "Mandatory Affordable Housing Set-Aside", which requires all new multi-family residential development of 5 or more units that becomes permissible through a use variance, density variance, rezoning or redevelopment plan provide an affordable housing set-aside.

A copy of the full Ordinance is available to any member of the general public without cost, at the City of Englewood Municipal Building, 2-10 North Van Brunt Street, Englewood, New Jersey, at the Office of the City Clerk, between the hours of 9:00 a.m. and 4:00 p.m.

Yancy Wazirmas, City Clerk
City of Englewood
County of Bergen, State of New Jersey