

ORDINANCE NO. 2020-18

ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY SUPPLEMENTING AND AMENDING SECTION 205-3 OF THE BOROUGH CODE RESPECTING AFFORDABLE HOUSING MECHANISMS WITHIN THE BOROUGH OF RED BANK

BE IT ORDAINED by the Borough Council of the Borough of Red Bank in the County of Monmouth, State of New Jersey, as follows (additions are underlined and deletions are in [brackets]):

Section I. The Borough Code, Section 205-3, Affordable Housing Mechanisms, is hereby amended to read as follows:

§ 205-3. Affordable housing mechanisms.

The Borough of Red Bank will use the following mechanisms to satisfy its affordable housing obligations:

A. Percentage of mandatory set-asides for all future residential developments.

- (1) If the Borough permits the construction of multifamily or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, at a gross residential density of six units to the acre or more, and which consists of **[10 or more] 11 or more** new residential units, the Borough shall require that an appropriate percentage of the residential units be set aside for low- and moderate-income households.
- (2) This requirement shall apply beginning with the effective date of this article to any multifamily or single-family attached residential development, including the residential portion of a mixed-use development, which consists of **[10 or more] 11 or more** new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Planning or Zoning Board, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation.
- (3) An affordable set-aside shall be required in accordance with the following:

Total Number of Units	Minimum Percentage of Affordable Units
10 and under	None
11 to 25	10%
26 to 150	15%
151 to 215	17.5%
216 and over	20%

- (4) Off-site affordable units and payment in lieu.
 - (a) Developers of 10 units and under will be required to pay the Borough's development fee. Developers of 11 units and above will be required to provide at least 70% of the units required on site and will have the option to satisfy the remaining obligation with either:

[1] Off-site affordable units; or

[2] A payment in lieu of such units in accordance with N.J.A.C. 5:93-8.10(c) and N.J.A.C. 5:97-6.4(c)3, provided that the Borough will only accept a payment in lieu if at the time of application the applicant can demonstrate that the payment in lieu will create an equivalent number of new construction or gut rehabilitation affordable units to those that would have been provided on site, which off-site or payment in lieu units, when combined with the on-site units, shall be consistent with the bedroom distribution, very-low-/low-/moderate-income split and all other terms of the settlement agreement.

(b) Off-site affordable units or units to be produced through a payment in lieu shall be subject to the phasing requirements in § 205-4B.

(5) This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

(6) This requirement does not apply to any sites or specific zones otherwise identified in the settlement agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein, though all other provisions of this article shall be applicable to those sites unless otherwise specified.

(7) A set-aside shall not apply to developments containing 10 or fewer dwelling units.

(8) All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. 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 **[10 or more] 11 or more.**

B. Rehabilitation program.

(1) The Borough of Red Bank and Fair Share Housing Center have agreed upon a rehabilitation program of 129 units. The Borough will create and administer both a rental and owner-occupied rehabilitation program to satisfy its present need obligation of 129 units. A spending plan will be prepared and adopted by the Borough that shall outline the schedule and expenditures through 2025 to realize 129 rehabilitated units. The spending plan will be funded through the Borough's existing Developer Fee Ordinance and payments in lieu where appropriate. The administrative agent shall be responsible for submitting the rehabilitation program manuals and documenting each rehabilitation application and documents thoroughly. Any renovation of deficient housing units to be occupied by low- and moderate-income households will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.

(2) All rehabilitated rental or owner-occupied units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.

- (3) The Borough of Red Bank shall dedicate an average of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- (4) The Borough of Red Bank shall designate, subject to the approval of the Court, one administrative agent to administer the rehabilitation program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The administrative agent shall provide a rehabilitation manual for both rental and owner-occupant rehabilitations. These manuals, when created, will be reviewed by the governing body and adopted by resolution subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the office of the Municipal Clerk and in the office of the administrative agent.
- (5) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and uniform housing affordability controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is rerented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low-or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

C. First-time homebuyers program. The Borough will develop a first-time homebuyer program to provide for an opportunity for homeownership in the Borough to at least 50 low- and moderate-income households by 2025. The program will be funded with development fees collected by the Borough, and the properties involved will be deed restricted for a thirty-year period (control period) to remain affordable to low- or moderate-income households consistent with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-16.1 et seq. The maximum loan amount to be dedicated to each unit shall be \$10,000.

D. Alternative living arrangements.

- (1) The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (a) Affirmative marketing (N.J.A.C. 5:80-26.15); provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

- (2) With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

- (3) The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

Section II. If any section, 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 III. This Ordinance shall take effect upon final passage and publication according to law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin		X			
Councilwoman Triggiano	Motion	X			
Councilman Ballard		X			
Councilman Yngstrom		X			
Councilman Zipprich		X			
Councilwoman Horgan	Second	X			

Introduced: September 9, 2020
 Public Hearing/Adoption: September 23, 2020