

**TOWN OF WESTFIELD
ORDINANCE NO. 2000**

“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD TO AMEND THE AFFORDABLE HOUSING INCLUSIONARY ZONES DESIGNATED AS THE RA-5A AND RA-5B ZONING DISTRICTS”

WHEREAS, on January 23, 2013, the Superior Court of New Jersey (Honorable Frederic S. Kessler, J.S.C.) entered an Order of Remand and Scheduling of a Fairness Hearing and Compliance Hearing (the “Court Order”) in Mount Laurel affordable housing litigation entitled Sunnyside Senior Housing of Westfield, LLC v. Town of Westfield, et al., Docket No. UNN-L-135-09 (the “litigation”), which Court Order remanded to the Town Council of the Town of Westfield and the Westfield Planning Board the Town’s 2009 Housing Plan Element and Fair Share Plan to allow the Planning Board and the Town of Westfield to consider and vote on a new 2013 Affordable Housing Compliance Plan consisting of a new 2013 Housing Plan Element and Fair Share Plan (the “2013 HPE&FSP”) as well as ordinances implementing the 2013 HPE&FSP; and

WHEREAS, the Town Council is desirous of amending the Town’s Land Use Ordinance in accordance with the Court Order to implement the 2013 HPE&FSP by amending the current RA-5A and RA-5B inclusionary zoning districts established in the Land Use Ordinance as contemplated in the 2013 HPE&FSP, but which ordinance amendments shall not become effective until: (1) proper passage and publication in accordance with law; (2) entry by the Court of a Final Judgment of Compliance and Repose in the litigation, and (3) the expiration of the 45-day appeal period without an appeal having been filed;

BE IT THEREFORE ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, IN THE COUNTY OF UNION AND THE STATE OF NEW JERSEY, AS FOLLOWS:

The Land Use Ordinance shall be amended by deleting existing Article 11.18 and existing Article 11.19 in their entirety and replacing Article 11.18 and Article 11.19 as follows:

Article 11.18

RA-5A MULTI-FAMILY RESIDENCE DISTRICT.

§ 11.18. RA-5A MULTI-FAMILY RESIDENCE DISTRICT.

- A. **Principal uses and structures.** [Amended 09-29-09 by Ord. No. 1946] The following principal uses and structures shall be permitted in the RA-5A zone district:
1. multi-family residences as defined in Article 2;
 2. single-family residential uses in attached single-family residential structures, also known as townhouses; and,
 3. private open space, private and public parks and playgrounds.
- B. **Accessory uses and structures.** The following accessory uses and structures shall be permitted in the RA-5A zone district:
1. parking and parking facilities as regulated in Article 17;
 2. signs as regulated in Article 16;
 3. antennas, as regulated in § 13.04; and,

4. accessory uses and structures customarily subordinate and incidental to permitted principal uses and accessory uses and structures customarily subordinate and incidental to permitted conditional uses.

C. **Conditional uses and structures.** Residential-type public utility facilities shall be permitted in the RA-5A zone district only if they comply with the appropriate regulations for such uses or structures in Article 18.

D. **Prohibited uses and structures.** Any use or structure other than those uses or structures permitted in subsection A, B or C above are prohibited.

E. **Bulk and lot regulations.** The following bulk and lot regulations shall apply to all developments within the RA-5A zone district:

1. Minimum tract area. There shall be a minimum tract area of five (5) acres.

2. Minimum front yard. For interior lots, there shall be a front yard of not less than forty (40) feet. For corner lots, the required front yard shall be as established above for interior lots. The required street side yard shall not be less than twenty (20) feet, except when the street side yard abuts a county road, in which case the street side yard shall not be less than forty (40) feet.

3. Minimum side yard and rear yard. Except as provided above for corner lots, no building containing dwelling units shall be closer to any side or rear property line than thirty (30) feet. Notwithstanding this requirement, when the side yard in the RA-5A zone district abuts the side yard of any residential zone, the minimum side yard in the RA-5A zone district shall be equal to one (1) foot for every foot of height of the building in the RA-5A zone, but not less than thirty (30) feet.

4. Maximum density. There shall be a maximum density of eight (8) dwelling units for each acre of lot or tract area.

5. Maximum building height. No principal building shall exceed the maximum of two (2) habitable floors, exclusive of basement, but not more than thirty-five (35) feet in height. No accessory building shall exceed one (1) story in height.

6. Minimum distance between buildings. Between buildings containing dwelling units, the following minimum distances shall apply:

- a. buildings facing front-to-front, a minimum setback of sixty (60) feet separated by an open court and said court shall not contain any accessory building;
- b. buildings facing rear-to-rear, a minimum setback of sixty (60) feet;
- c. buildings facing front-to-side, a minimum setback of forty (40) feet; and
- d. no rear of one building shall face the front of another building.

7. Maximum coverage by buildings and above-grade structures. No more than twenty-five percent (25%) of the area of any lot shall be covered by buildings and above-grade structures; provided, however, that such coverage may be increased to twenty-seven percent (27%) when at least two percent (2%) of such coverage of the lot is by a deck or decks. Earthen flood detention basins as defined herein shall not be considered as a building or structure for purposes of computing this coverage.

8. Maximum coverage by improvements. No more than fifty percent (50%) of the area of any lot shall be covered by physical improvements, including but

not limited to buildings, above-grade structures, and at-grade structures including, but not limited to, sidewalks, parking areas, patios, driveways, swimming pools, etc. It is the intention of this provision that each lot shall have at least fifty percent (50%) of its lot area without any improvements except vegetation. Earthen flood detention basins as defined herein shall not be considered as a building, structure or improvement for purposes of computing this coverage.

9. Maximum dwelling units per building. No townhouse building shall contain more than six (6) dwelling units. No multi-family residential building shall contain more than ten (10) dwelling units. For purposes of administering this section, where buildings containing dwelling units are connected by an accessory structure which does not contain dwelling units, each building containing dwelling units shall be considered a separate building.
10. Maximum continuous wall length. The longest dimension of any continuous exterior wall of any building shall not be greater than fifty (50) feet. For the purpose of administering this provision, any exterior wall that is offset for a depth of four (4) feet or greater shall be construed as a separate wall.

F. **Affordable housing requirements.** The following regulations shall apply to all developments which provide for affordable housing within the RA-5A zone district:

1. Total number of affordable units. Any development for multi-family residences or single-family attached residences shall be required to make at least twenty percent (20%) of the units to be sold or rented at rates affordable to low, very low and moderate income limits, with any fractional unit to be rounded upward. All affordable units shall be constructed on site.
2. All other provisions governing the development of affordable housing in this zone district shall be in accordance with the provisions of the Town of Westfield Affordable Housing Regulations contained in Article 23 of the Land Use Ordinance.
3. Compliance with site plan and subdivision standards. Compliance with Article 10, Design Guidelines, Standards and Construction Specifications, shall be required for all affordable housing developments, except where deviations from such provisions are determined by the Planning Board to be necessary to provide affordable housing as permitted herein. In considering deviations, the Planning Board shall be guided by the rules and regulations of the Council on Affordable Housing at N.J.A.C. 5:93-10.

G. **Other regulations.** The following other regulations shall apply to all development within the RA-5A zone district:

1. Townhouse façade variation. In order to avoid excessive visual monotony, the front and rear façade of each townhouse dwelling unit shall be substantially different in appearance from the façade of adjacent dwelling units. The façade variation as required herein shall be accomplished by the use of different materials, textures or colors, or any combination thereof; provided that the façade designs shall avoid excessive variety or contrast. The use of materials, textures and colors shall be harmonious and compatible throughout the entire development.
2. Compatible architecture. The design of accessory buildings and structures, including the nature of building materials used, shall be substantially the same as used in the construction of principal buildings on the same site designed to be used for multi-family residences or single-family attached residences.

- 3. Use of accessory buildings. No part of any accessory building or structure shall be used for living purposes.
- 4. Screening. Any premises in the RA-5A zone district that is used for multi-family residences or single-family attached residences shall be effectively screened on any side which abuts any premises that is used exclusively as a single-family detached or two-family dwelling. The required screening shall meet the conditions imposed by the Planning Board for this purpose.
- 5. Affordability regulations. All inclusionary developments in the RA-5A zone district shall comply with all applicable affordable housing regulations of Article 23 of the Land Use Ordinance and all affordable housing constructed in the RA-5A zone district shall be constructed, marketed, sold and/or rented in accordance with the New Jersey Uniform Housing Affordability Controls (UHAC) set forth in N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:97-1 et seq.
- 6. General provisions, parking and loading. In addition to the above requirements, all development in the RA-5A zone district shall comply with all other applicable provisions of the Land Use Ordinance, including but not limited to the general provisions of Article 12, and the off-street parking provisions of Article 17.
- 7. Pre-existing uses. The use(s) existing on the property, at the time of adoption of this ordinance, are permitted to continue. The uses are permitted to be demolished, rebuilt and modified in accordance with the prior zoning standards that were in effect at the time of this rezoning. No change of use shall otherwise occur except in strict conformance with this ordinance.

H. **Effective Date.** The within new Article 11.18 of the Land Use Ordinance shall not become effective until: (1) proper passage and publication in accordance with law; (2) entry by the Superior Court of New Jersey of a Final Judgment of Compliance and Repose in litigation entitled Sunnyside Senior Housing of Westfield, LLC v. Town of Westfield, et al., Docket No. UNN-L-135-09, and (3) the expiration of the 45-day appeal period without an appeal of the Judgment of Compliance and Repose having been filed.

ARTICLE 11.19

RA-5B MULTI-FAMILY RESIDENCE DISTRICT.

§ 11.19. RA-5B MULTI-FAMILY RESIDENCE DISTRICT.

- A. **Principal uses and structures.** The following principal uses and structures shall be permitted in the RA-5B zone district:
 - 1. multi-family residences as defined in Article 2, limited to the following ownership types:
 - a. fee simple ownership of individual units;
 - b. condominium ownership; or,
 - c. cooperative ownership;
 - 2. single-family residential uses in attached single-family residential structures, also known as townhouses; and,
 - 3. private open space, private and public parks and playgrounds.

- B. **Accessory uses and structures.** The following accessory uses and structures shall be permitted in the RA-5B zone:
1. parking and parking facilities as regulated in Article 17;
 2. signs as regulated in Article 16;
 3. antennas, as regulated in § 13.04; and,
 4. accessory uses and structures customarily subordinate and incidental to permitted principal uses and accessory uses.
- C. **Conditional uses and structures.** Residential-type public utility facilities shall be permitted in the RA-5B zone district only if they comply with the appropriate regulations for such uses or structures in Article 18.
- D. **Prohibited uses and structures.** Any use or structure other than those uses or structures permitted in subsection A, B or C above are prohibited.
- E. **Bulk and lot regulations.** The following bulk and lot regulations shall apply to all developments within the RA-5B zone district:
1. Minimum tract area. There shall be a minimum tract area of two (2) acres.
 2. Minimum front yard. For interior lots, there shall be a front yard of not less than forty (40) feet. For corner lots, the required front yard shall not be less than forty (40) feet, and the required street side yard shall not be less than forty (40) feet.
 3. Minimum side yard and rear yard. Except as provided above for corner lots, no building containing dwelling units shall be closer to any side or rear property line than thirty (30) feet. Notwithstanding this requirement, when the side yard in the RA-5B zone abuts the side yard of any residential zone, the minimum side yard in the RA-5B zone shall be equal to one (1) foot for every foot of height of the building in the RA-5B zone, but not less than thirty (30) feet.
 4. Maximum density. There shall be a maximum density of eight (8) dwelling units for each acre of lot or tract area.
 5. Maximum building height. No principal building shall exceed the maximum of two (2) habitable floors, exclusive of basement, but not more than thirty-five (35) feet in height. No accessory building shall exceed one (1) story in height.
 6. Minimum distance between buildings. Between buildings containing dwelling units, the following minimum distances shall apply:
 - a. buildings facing front-to-front, a minimum setback of sixty (60) feet separated by an open court and said court shall not contain any accessory building;
 - b. buildings facing rear-to-rear, a minimum setback of sixty (60) feet;
 - c. buildings facing front-to-side, a minimum setback of forty (40) feet; and
 - d. no rear of one building shall face the front of another building.
 7. Maximum coverage by buildings and above-grade structures. No more than twenty-five percent (25%) of the area of any lot shall be covered by buildings and above-grade structures; provided, however, that such

coverage may be increased to twenty-seven percent (27%) when at least two percent (2%) of such coverage of the lot is by a deck or decks. Earthen flood detention basins as defined herein shall not be considered as a building or structure for purposes of computing this coverage.

8. Maximum coverage by improvements. No more than fifty percent (50%) of the area of any lot shall be covered by physical improvements, including but not limited to buildings; above-grade structures; and at-grade structures including, but not limited to, sidewalks, parking areas, patios, driveways, swimming pools, etc. It is the intention of this provision that each lot shall have at least fifty percent (50%) of its lot area without any improvements except vegetation. Earthen flood detention basins as defined herein shall not be considered as a building, structure or improvement for purposes of computing this coverage.
9. Maximum dwelling units per building. No townhouse building shall contain more than six (6) dwelling units. No multi-family residential building shall contain more than ten (10) dwelling units. For purposes of administering this section, where buildings containing dwelling units are connected by an accessory structure which does not contain dwelling units, each building containing dwelling units shall be considered a separate building.
10. Maximum continuous wall length. The longest dimension of any continuous exterior wall of any building shall not be greater than fifty (50) feet. For the purpose of administering this provision, any exterior wall that is offset for a depth of four (4) feet or greater shall be construed as a separate wall.

F. **Affordable housing requirements.** The following regulations shall apply to all developments which provide for affordable housing within the RA-5B zone district:

1. Total number of affordable units. Any development for multi-family residences or single-family attached residences shall be required to make at least twenty percent (20%) of the units to be sold or rented at rates affordable to low, very low and moderate income limits, with any fractional unit to be rounded upward. All affordable units shall be constructed on site.
2. All other provisions governing the development of affordable housing in this zone district shall be in accordance with the provisions of the Town of Westfield Affordable Housing Regulations contained in Article 23 of the Land Use Ordinance.
3. Compliance with site plan and subdivision standards. Compliance with Article 10, Design Guidelines, Standards and Construction Specifications, shall be required for all affordable housing developments, except where deviations from such provisions are determined by the Planning Board to be necessary to provide affordable housing as permitted herein. In considering deviations, the Planning Board shall be guided by the rules and regulations of the Council on Affordable Housing at N.J.A.C. 5:93-10.

G. **Other regulations.** The following other regulations shall apply to all development within the RA-5B zone district.

1. Townhouse façade variation. In order to avoid excessive visual monotony, the front and rear façade of each townhouse dwelling unit shall be substantially different in appearance from the façade of adjacent dwelling units. The façade variation as required herein shall be accomplished by the use of different materials, textures or colors, or any combination thereof; provided that the façade designs shall avoid excessive variety or contrast. The use of materials, textures and colors shall be harmonious and compatible throughout the entire development.

2. Compatible architecture. The design of accessory buildings and structures, including the nature of building materials used, shall be substantially the same as used in the construction of principal buildings on the same site designed to be used for multi-family residences or single-family attached residences.
 3. Use of accessory buildings. No part of any accessory building or structure shall be used for living purposes.
 4. Screening. Any premises in the RA-5B zone district that is used for multi-family residences or single-family attached residences shall be effectively screened on any side which abuts any premises that is used exclusively as a single-family detached or two-family dwelling. The required screening shall meet the conditions imposed by the Planning Board for this purpose.
 5. Affordability regulations. All inclusionary developments in the RA-5B zone district shall comply with all applicable affordable housing regulations of Article 23 of the Land Use Ordinance and all affordable housing constructed in the RA-5B zone district shall be constructed, marketed, sold and/or rented in accordance with the New Jersey Uniform Housing Affordability Controls (UHAC) set forth in N.J.A.C. 5:80-26.1 et seq. and N.J.A.C. 5:97-1 et seq.
 6. General provisions, parking and loading. In addition to the above requirements, all development in the RA-5B zone district shall comply with all other applicable provisions of the Land Use Ordinance, including but not limited to the general provisions of Article 12, and the off-street parking provisions of Article 17.
- H. **Effective Date.** The within new Article 11.19 of the Land Use Ordinance shall not become effective until: (1) proper passage and publication in accordance with law; (2) entry by the Superior Court of New Jersey of a Final Judgment of Compliance and Repose in litigation entitled Sunnyside Senior Housing of Westfield, LLC v. Town of Westfield, et al., Docket No. UNN-L-135-09, and (3) the expiration of the 45-day appeal period without an appeal of the Judgment of Compliance and Repose having been filed.

PASSED AND ADOPTED: May 7, 2013

ATTEST:


Town Clerk


Mayor