

**TOWN OF WESTFIELD
ORDINANCE NO. 2002**

**“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN
OF WESTFIELD ESTABLISHING AN AFFORDABLE HOUSING
INCLUSIONARY ZONE DESIGNATED AS THE NA-AH TOD ZONING
DISTRICT”**

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 incorporating inclusionary zoning districts into the Land Use Ordinance as proposed 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 adding a new Article 11.31 North Avenue Affordable Housing Transit Oriented Development Zone to read in its entirety as follows:

ARTICLE 11.31

**NORTH AVENUE AFFORDABLE HOUSING (NA-AH) TRANSIT ORIENTED
DEVELOPMENT (TOD) ZONING DISTRICT.**

**§11.31 NA-AH North Avenue Affordable Housing Transit Oriented Development
District.**

- A. **Purpose and Intent.** The purpose of this article is to supplement Article 11 of the Code of the Town of Westfield in such a manner as to provide for the realistic opportunity for the development of affordable housing for households of low and moderate income, as required by Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and consistent with the 2013 HPE&FSP. These regulations are intended to implement the 2013 HPE&FSP.
- B. **Applicability and re-zoning.** These regulations shall apply to the following properties: Block 3305, Lots 4 and 5, as shown on the Official Tax Maps of the Town of Westfield, and which shall be designated as NA-AH on the Zoning Map of the Town of Westfield.
- C. **Principal uses and structures.** The following principal uses and structures shall be permitted in the NA-AH 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.
- D. **Accessory uses and structures.** The following accessory uses and structures shall be permitted in the NA-AH 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 and structures customarily subordinate and incidental to permitted conditional uses.
- E. **Conditional uses and structures.** Residential-type public utility facilities shall be permitted in the NA-AH district subject to compliance with the applicable regulations for such uses or structures in Article 18.
- F. **Prohibited uses and structures.** Any uses or structures, other than those uses or structures permitted in subsection C through E above, are prohibited.
- G. **Bulk and lot regulations.** The following bulk and lot regulations shall apply to all developments within the NA-AH zone district:
1. Minimum tract area. There shall be a minimum tract area of one (1) acre.
 2. Minimum front yard. There shall be a front yard of not less than forty (40) feet.
 3. Minimum side yard and rear yard. No building containing dwelling units shall be closer than twenty (20) feet to any side property line or closer to any rear property line than thirty-five (35) feet.
 4. Minimum lot frontage and lot width. There shall be a minimum lot frontage and lot width of two hundred fifty (250) feet for multi-family residences and a lot frontage of two hundred fifty (250) feet and lot width of fifteen (15) feet for townhouses.
 5. Maximum density. The maximum density for development comprised of residential units intended for sale shall be fifteen (15) dwelling units per acre. The maximum density for development comprised of residential units intended for rent shall be sixteen (16) units per acre.
 6. Affordable housing set aside. At least twenty percent (20%) of the units constructed shall be sold or rented at rates affordable to low, very low and moderate income limits in accordance with the state's Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) and Council on Affordable Housing regulations (N.J.A.C. 5:97-1.1 et seq.), with any fractional unit to be rounded upward. All affordable units shall be constructed on site.
 7. Maximum building height. No principal building shall exceed three (3) 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.
 8. Minimum distance between buildings. Between buildings containing dwelling units, the following minimum distances shall apply:
 - a. for multi-family buildings, one (1) foot for every two (2) feet of combined building height.
 - b. for townhouse-style buildings:

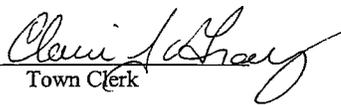
- i. facing front-to-front, a minimum setback of sixty (60) feet separated by an open court and said court shall not contain any accessory building;
 - ii. facing rear-to-rear, a minimum setback of sixty (60) feet;
 - iii. facing front-to-side, a minimum setback of forty (40) feet; and,
 - iv. no rear of one townhouse building shall face the front of another townhouse building.
9. Maximum coverage by buildings and above-grade structures. No more than twenty-five (25%) of the area of any lot shall be covered by multi-family buildings and above-grade structures; provided, however, that no more than thirty-five percent (35%) of the area of any lot shall be covered by townhouse-style buildings and above-grade structures provided, however, that such coverage may be increased to thirty-seven percent (37%) 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.
10. Maximum coverage by improvements. No more than seventy percent (70%) 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 thirty percent (30%) 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.
11. Maximum dwelling units per building. No townhouse building shall contain more than nine (9) dwelling units. No multi-family residential building shall contain more than twelve (12) dwelling units. For purposes of administering this section, where buildings containing dwelling units are connected by a structure which does not contain dwelling units (by example a covered walkway, a portico or covered driveway), each building containing dwelling units shall be considered a separate building.
12. 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.
- H. **Other regulations.** The following other regulations shall apply to multi-family residences and townhouse attached residences within the NA-AH zone district.
1. Design Considerations. The development of the properties within this zone presents an opportunity to implement the best development and sustainable practices promoted by the New Jersey Office of State Planning. Development within this TOD zone shall promote transit-friendly improvements as outlined in the Town Land Use Element of its Master Plan and identified below:
 - a. Off-site improvements as determined necessary to provide safe and appropriate pedestrian access to the Westfield community rail train station.
 - b. Environmental sustainability in the development of these properties may include recycling of demolition materials, implementation of measures to conserve and protect water resources, minimizing waste and pollutants of all kinds, maximizing energy efficiently in construction materials and household appliances, and expansion of the urban forest through on-site landscaping.
 2. 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

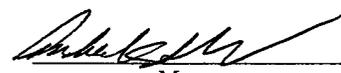
appearance from the façade of adjacent dwelling units. The façade variation as required herein shall be accomplished by the use of different materials, textures or colors, or any combination thereof; provided that the façade designs shall avoid excessive variety or contrast. The use of materials, textures and colors shall be harmonious and compatible throughout the entire development.

3. 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.
 4. Use of accessory buildings. No part of any accessory building or structure shall be used for living purposes.
 5. 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.
 6. Affordability regulations. All inclusionary developments in the NA-AH 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 NA-AH 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.
 7. General provisions, parking and loading. In addition to the above requirements, all development in the NA-AH 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.
- I. **Effective Date.** The within new Article 11.31 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