

TOWN OF WESTFIELD
ORDINANCE NO. 2003

“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD ESTABLISHING AN AFFORDABLE HOUSING INCLUSIONARY ZONE DESIGNATED AS THE NS-AMFH 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 11.32 New Street Affordable Multi- Family Housing Transit Oriented Development Zone to read in its entirety as follows:

ARTICLE 11.32

NEW STREET AFFORDABLE MULTI-FAMILY HOUSING (NS-AMFH) TRANSIT ORIENTED DEVELOPMENT (TOD) ZONING DISTRICT.

§11.32 NS-AMFH New Street Affordable Multi-Family 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 3208, Lots 1.02 and 2, and Block 3207, Lots 1, 2, 3, 4, 5 and 6, all as shown on the Official Tax Map of the Town of Westfield, and which shall be designated as NS-AMFH 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 NS-AMFH zone district:

- 1. multi-family residences as defined in Article 2; and,

2. 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 NS-AMFH 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 NS-AMFH 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 NS-AMFH zone district:
1. Minimum tract area. There shall be a minimum tract area of one-half (0.5) acre.
 2. Minimum front yard. The minimum front yard setback shall be twenty (20) feet plus one (1) foot for every one and one-half (1.5) feet of building height over thirty (30) feet.
 3. Minimum street side yard. The minimum street side yard setback shall be fifteen (15) feet or when the subject property abuts a county or state highway, the minimum setback shall be twenty (20) feet plus one (1) foot for every one and one-half (1.5) feet of building height over thirty (30) feet.
 4. Minimum side yard and rear yard. No building containing dwelling units shall be closer to any side property line than fifteen (15) feet or closer to any rear property line than twenty-five (25) feet.
 5. Maximum density. The maximum density for development comprised of residential units intended for sale shall be fifteen (15) units per acre. The maximum density for development comprised of residential units intended for rent shall be sixteen (16) units per acre. Maximum Density shall be measured based upon the comprehensive design of the total average of dwelling units contained on the site and not based upon individual lots that make up the overall development.
 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 the maximum of three (3) habitable floors, exclusive of basement, but not more than forty (40) feet in height. No accessory building shall exceed one (1) story in height.
 8. Minimum distance between buildings. Between buildings containing dwelling units, the minimum distance shall not be less than one (1) foot for every three (3) feet of combined building height.

9. Maximum coverage by buildings and above-grade structures. No more than thirty percent (30%) of the area of any lot shall be covered by multi-family buildings and above-grade structures. 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 at least thirty percent (30%) of the lot area shall not have 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 multi-family residential building shall contain more than sixteen (16) 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, 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 single-family attached residences within the NS-AMFH zone district:

1. Design Considerations. The development of the properties within the 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 efficiency in construction materials and household appliances, and expansion of urban forest through on-site landscaping.
2. Use of accessory buildings. No part of any accessory building or structure shall be used for living purposes.
3. Screening. Wherever development in the NS-AMFH zone abuts an adjoining property that has located thereon a single-family detached or two-family dwelling, there shall be a screened buffer by landscaping or other means as approved by the Planning Board to effectively screen the higher density development from view.
4. Affordability regulations. Any inclusionary developments in the NS-AMFH zone district must comply with all applicable regulations of the affordable housing regulations of Article 23 and all affordable housing constructed as a part of this ordinance shall be constructed, marketed, sold and/or rented in accordance with New Jersey Uniform Housing Affordability Controls (UHAC) NJAC 5:80-26.1 et seq. and COAH regulations NJAC 5:97-1 et seq.
5. General provisions, parking and loading. In addition to the above requirements, any development in the NS-AMFH zone district shall comply with all applicable

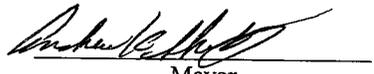
provisions of this ordinance and the general provisions of Article 12; the off-street parking provisions of the Residential Site Improvement Standards and Article 17; and the affordable housing provisions of Article 23.

- I. **Effective Date.** The within new Article 11.32 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