



**BOROUGH OF FAIRVIEW  
ORDINANCE 26-04**

**AN ORDINANCE OF THE BOROUGH OF FAIRVIEW AMENDING CHAPTER 25 ARTICLE XII OF THE BOROUGH CODE ENTITLED “ZONING PROVISIONS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT (FHA) AS AMENDED, AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, the Borough of Fairview filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”), entitled “In the Matter of the Application of the Borough of Fairview,” Docket No. BER-L-000541-25 on January 23, 2025; and

**WHEREAS**, the Borough of Fairview is in the process of entering into a consent order with Fair Share Housing Center, to carry out Fairview’s affordable housing obligation, whereby the Code of the Borough of Fairview is to be amended to include provisions addressing Fairview’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented; and

**WHEREAS**, this Ordinance is intended to provide assurances that low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that low- and moderate-income households shall occupy those units; and

**WHEREAS**, this Ordinance shall apply except where inconsistent with applicable law; and

**WHEREAS**, the Borough of Fairview Planning Board has adopted a Housing Element and Fair Share Plan on June 23, 2025 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

**WHEREAS**, the Housing Element and Fair Share Plan have been endorsed by the Borough Council by Resolution Number R-25-132 on June 26, 2025; and

**WHEREAS**, this Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Fairview as follows:

**Section 1:** Article XII of the Land Use and Development Regulations of the Borough of Fairview entitled Zoning Provisions, is hereby amended to add the following new affordable housing overlay zone regulations:

**§ Section 25-1208 Affordable Housing Overlay District**

- A. Purpose. The purpose of this chapter is to establish overlay zone so as to provide opportunity to develop multifamily residential housing units which are affordable to low- and moderate-income families consistent with the Borough’s constitutional obligation to provide affordable housing pursuant to the New Jersey Supreme Court’s Mount Laurel decisions. Development is to be limited in height, density, and development coverages, with adequate space provisions comparable with the suburban character of the Borough of Fairview. Where a proposed use is permitted in both the underlying zone district and overlay zone, the development regulations of the underlying zone

district shall apply, unless the developer elects to develop in accordance with the AHO zone standards set forth herein.

- B. Permitted Principal Uses. Within the AHO District multi-family and single-family attached townhouse residential development shall be permitted subject to the specific conditions and limitations as set forth in this chapter.
- (1) Multifamily shall mean a building or portion thereof, designed exclusively for occupancy containing three or more units either for ownership or rent;
  - (2) Townhouse shall mean a self-contained, one-family dwelling unit, attached to one or more other one-family dwelling units, having direct access to the outside, including stacked units sharing a common exterior entrance and interior hallway for access to the stacked unit.
- C. Required affordable housing set-aside. Any residential development within the AHO zones shall be required to provide a minimum of 20% of the total number of units on-site to be constructed as affordable to low- and moderate-income eligible families. In instances where an affordable unit results in a fractional requirement, consideration may be given towards providing an in lieu of payment for the fractional portion of the required set aside.
- D. Permitted Accessory uses. Within the AHO District, the following accessory uses shall be permitted:
- (1) Laundry rooms, recreational rooms, and other similar such accessory uses which are for the common benefit of all residents of the multifamily development.
  - (2) Outdoor recreational facilities including but not limited to swimming pools, tennis courts, basketball courts, and playground equipment.
  - (3) Fences, garden walls, and other landscape features, including decorative pools, fountains, statuary, terraces, steps, benches.
- E. Minimum lot size requirements. The minimum lot size within the AHO zones shall not be less than 6,000 square feet.
- F. Dwelling unit density. Dwelling density shall not exceed 40 dwelling units an acre.
- G. Lot Coverage. The sum of all principal and accessory structures shall not exceed 50% for multi-family development and 40% for townhouse development.
- H. Impervious Coverage. The maximum impervious coverage for development within the AHO zone shall not exceed 70% for townhouse development and 80% for multi-family development.
- I. Yard Requirements.
- (1) Front Yard. 20 feet
  - (2) Side Yard. 5 feet / 10 feet
  - (3) Rear Yard. 10 feet
    - (a) In the case of a corner lot, each yard which abuts the street shall be considered a front yard, and the lot shall comply with front yard setback requirements and all other front yard requirements and limitations set out in this chapter respecting each street.
- J. Open Space. Any premise used for multifamily dwellings shall contain a minimum of 20% of lot area as open space. Any premises with townhouse development shall contain a minimum of 30% area as open space.
- (1) Roof space on accessory buildings or structures, including roof space on parking facilities, may be used as required open space, provided that:

- (a) Such space shall be accessible to occupants of the dwelling units it is designed to serve, by pedestrian means of access other than stairs.
  - (b) Such space shall, on at least one side, be at the same grade as the land abutting it.
  - (c) (c) Such space shall, on all sides, be not more than 12 feet above the grade of the land abutting it.
  - (d) Such space shall contain railings, fencing or similar treatment to make it safe and suitable for recreational use.
- K. Buffer requirements. A landscaped buffer area shall be required and consist of planted materials intended to provide an attractive visual screen within all of the following described areas adjacent to each side lot line and the rear lot line of each lot:
  - (1) When adjacent to property used or zoned for residential purposes: 25 feet.
  - (2) When adjacent to property used for nonresidential purposes: 15 feet.
- L. Height Limitations. Multi-family dwellings has a maximum height of 6 stories and 60 feet. Townhouses have a maximum height of 4 stories and 40 feet.
  - (1) Building height shall be measured as the vertical distance between the average finished grade and the highest point of a building or structure. The highest point shall be the coping of a flat roof without a parapet, the midpoint of the parapet on a flat roof, the deckline of a mansard roof, or the midpoint between the eaves and highest ridge of a gable, gambrel, or hipped roof.
  - (2) Elevator shafts, solar collectors, and mechanical equipment necessary for building functions and maintenance shall not be included in the calculation of the maximum building height, provided the shafts and equipment are screened or integrated into architectural rooflines so as not to be discernable from the public street level.
  - (3) No roof structure shall be allowed for the purpose of providing additional interior floor space.
- M. Architectural Design Standards
  - (1) Façade Design
    - (a) Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
    - (b) Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
      - [1] Each vertical articulation shall be no greater than thirty (30) feet apart.
      - [2] Each vertical articulation shall be a minimum of one (1) foot deep.
      - [3] Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.
      - [4] Building walls with expansive blank walls are prohibited on any building façade regardless of its orientation.

N. Landscape Requirements.

- (1) Landscaping shall be provided to promote a desirable visual environment, to accentuate the building design, define entranceways, screen parking areas, mitigate adverse visual impacts and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc. should be considered.
- (2) Landscaped islands should be at least six feet in width to accommodate planting.
- (3) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.
- (4) Areas not improved with buildings, structures, and other man-made improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities.
- (5) Shade trees shall be a minimum of 2.5-3 inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.

O. Lighting. All lighting fixtures and foot candle standards for parking areas and recreation facilities shall be consistent with the standards outlined by the Illuminating Engineering Society of North America.

- (1) The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the Borough Engineer and Land Use Board.
- (2) All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated during the hours of operation that occur after sunset.

P. Signage. Signage shall be permitted subject to the requirements of §25-1601.

**Section 2:** To amend the Borough of Fairview Zoning Map to reflect the new Affordable Housing Overlay District, inclusive of Block 208, Lot 1; Block 215, Lots 1 and 2; Block 225, Lots 1 through 14; Block 603, Lots 1 through 24 and 26 through 42; Block 604, Lots 1 through 6 and 8; Block 605, Lots 1, 3, and 4; and Block 724, Lot 4

**Section 3:** All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 4:** In the event of any inconsistency between the provisions of this Ordinance and the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), as may be amended and supplemented, UHAC shall govern and preempt the provisions of this Ordinance to the extent of such inconsistency.

**Section 5:** All sections of Chapter 25 not amended by this Ordinance shall remain in full force and effect.

**Section 6:** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.


**Section 7:** The amendments set forth herein shall take effect immediately upon passage and publication, as required by law.

**ATTEST:**



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Diane T. Testa  
Borough Administrator/Clerk

**BOROUGH OF FAIRVIEW**



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Violetta Berisha  
Mayor